

AMENDED IN ASSEMBLY AUGUST 29, 2012

AMENDED IN ASSEMBLY AUGUST 13, 2012

AMENDED IN ASSEMBLY MAY 14, 2012

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL

No. 1381

Introduced by Senators Pavley, Anderson, and Rubio
(Coauthors: Senators Alquist, Correa, De León, DeSaulnier, Evans,
Leno, Padilla, and Price)
(Coauthors: Assembly Members Ammiano, Beall, Blumenfield,
Chesbro, Hill, Huffman, and Yamada)

February 24, 2012

An act to amend Sections 4502 and 17206.1 of the Business and Professions Code, to amend Section 1761 of the Civil Code, to amend Sections 8769, 16191, 16195, 16196, 16200, 41306, 41401, and 51765 of the Education Code, to amend Sections 854.2, 6514, 12428, 12926, 14670.1, 14670.2, 14670.3, 14670.5, 14672.1, 14672.92, 16813, 16814, and 16816 of the Government Code, to amend Sections 1275.5, 1337.1, 1337.3, 13113, 51312, 110403, 123935, 125000, 127260, and 129395 of the Health and Safety Code, to amend Sections 10118, 10124, and 10203.4 of the Insurance Code, to amend Sections 1001.20, 1346, 1370.1, 1376, and 2962 of the Penal Code, to amend Section 1420 of the Probate Code, to amend Section 25276 of the Vehicle Code, and to amend Sections 4417, 4426, 4512, 4801, 5002, 5008, 5325, 5585.25, 6250, 6505, 6513, 6551, 6715, 6717, 6740, 6741, 7275, 7351, and 11014 of, to amend the heading of Article 2 (commencing with Section 6500) of Chapter 2 of, to amend the heading of Article 4 (commencing with Section 6715) of Chapter 3 of, and to amend the heading of Article 4 (commencing with Section 6740) of Chapter 4 of, Part 2 of Division 6 of, the Welfare and Institutions Code, relating to intellectual disabilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1381, as amended, Pavley. Mental retardation: change of term to intellectual disability.

Existing law refers to mental retardation or a mentally retarded person in provisions relating to, among other things, educational and social services, commitment to state facilities, and criminal punishment.

This bill would revise these provisions to refer instead to intellectual disability or a person with an intellectual disability. This bill would provide that it is the intent of the Legislature that the bill not be construed to change the coverage, eligibility, rights, responsibilities, or substantive definitions referred to in the amended provisions of the bill. This bill would make related and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) It is the intent of the Legislature to increase
- 2 respect for people with disabilities by eliminating the use of the
- 3 outdated, offensive, and misleading terms “mental retardation”
- 4 and “mentally retarded.”
- 5 (b) It is the intent of the Legislature that this act shall be
- 6 construed to amend provisions of state law to replace the term
- 7 “mental retardation” with “intellectual disability,” and the term
- 8 “mentally retarded person” with “person with intellectual
- 9 disabilities,” and shall not be construed to change the coverage,
- 10 eligibility, rights, responsibilities, or substantive definitions referred
- 11 to in the amended provisions of this act.
- 12 (c) As used in a state regulation, state publication, or other
- 13 writing, the terms “mental retardation” and “mentally retarded
- 14 person” have the same meaning as the terms “intellectual
- 15 disability” and “person with intellectual disability,” unless the
- 16 context or an explicit provision of federal or state law clearly
- 17 requires a different meaning.
- 18 (d) It is the intent of the Legislature that state agencies revise
- 19 state regulations, state publications, Internet Web sites, and other
- 20 writings to change the terminology as required by this act when
- 21 there is another reason to revise the regulation, publication, Internet

1 Web site, or other writing, thus eliminating any additional state
2 cost.

3 (e) For purposes of this section, “person” includes child,
4 defendant, individual, minor, pupil, and other words used to
5 describe a type of person.

6 SEC. 2. Section 4502 of the Business and Professions Code is
7 amended to read:

8 4502. As used in this chapter, “psychiatric technician” means
9 any person who, for compensation or personal profit, implements
10 procedures and techniques that involve understanding of cause
11 and effect and that are used in the care, treatment, and rehabilitation
12 of mentally ill or emotionally disturbed persons, or persons with
13 intellectual disabilities, and who has one or more of the following:

14 (a) Direct responsibility for administering or implementing
15 specific therapeutic procedures, techniques, treatments, or
16 medications with the aim of enabling recipients or patients to make
17 optimal use of their therapeutic regime, their social and personal
18 resources, and their residential care.

19 (b) Direct responsibility for the application of interpersonal and
20 technical skills in the observation and recognition of symptoms
21 and reactions of recipients or patients, for the accurate recording
22 of these symptoms and reactions, and for the carrying out of
23 treatments and medications as prescribed by a licensed physician
24 and surgeon or a psychiatrist.

25 The psychiatric technician in the performance of these procedures
26 and techniques is responsible to the director of the service in which
27 his or her duties are performed. The director may be a licensed
28 physician and surgeon, psychiatrist, psychologist, rehabilitation
29 therapist, social worker, registered nurse, or other professional
30 personnel.

31 Nothing herein shall authorize a licensed psychiatric technician
32 to practice medicine or surgery or to undertake the prevention,
33 treatment, or cure of disease, pain, injury, deformity, or mental or
34 physical condition in violation of the law.

35 SEC. 3. Section 17206.1 of the Business and Professions Code
36 is amended to read:

37 17206.1. (a) (1) In addition to any liability for a civil penalty
38 pursuant to Section 17206, a person who violates this chapter, and
39 the act or acts of unfair competition are perpetrated against one or
40 more senior citizens or disabled persons, may be liable for a civil

1 penalty not to exceed two thousand five hundred dollars (\$2,500)
2 for each violation, which may be assessed and recovered in a civil
3 action as prescribed in Section 17206.

4 (2) Subject to subdivision (d), any civil penalty shall be paid as
5 prescribed by subdivisions (b) and (c) of Section 17206.

6 (b) As used in this section, the following terms have the
7 following meanings:

8 (1) “Senior citizen” means a person who is 65 years of age or
9 older.

10 (2) “Disabled person” means a person who has a physical or
11 mental impairment that substantially limits one or more major life
12 activities.

13 (A) As used in this subdivision, “physical or mental impairment”
14 means any of the following:

15 (i) A physiological disorder or condition, cosmetic
16 disfigurement, or anatomical loss substantially affecting one or
17 more of the following body systems: neurological; musculoskeletal;
18 special sense organs; respiratory, including speech organs;
19 cardiovascular; reproductive; digestive; genitourinary; hemic and
20 lymphatic; skin; or endocrine.

21 (ii) A mental or psychological disorder, including intellectual
22 disability, organic brain syndrome, emotional or mental illness,
23 and specific learning disabilities.

24 “Physical or mental impairment” includes, but is not limited to,
25 diseases and conditions including orthopedic, visual, speech, and
26 hearing impairment, cerebral palsy, epilepsy, muscular dystrophy,
27 multiple sclerosis, cancer, heart disease, diabetes, intellectual
28 disability, and emotional illness.

29 (B) “Major life activities” means functions that include caring
30 for one’s self, performing manual tasks, walking, seeing, hearing,
31 speaking, breathing, learning, and working.

32 (c) In determining whether to impose a civil penalty pursuant
33 to subdivision (a) and the amount thereof, the court shall consider,
34 in addition to any other appropriate factors, the extent to which
35 one or more of the following factors are present:

36 (1) Whether the defendant knew or should have known that his
37 or her conduct was directed to one or more senior citizens or
38 disabled persons.

39 (2) Whether the defendant’s conduct caused one or more senior
40 citizens or disabled persons to suffer any of the following: loss or

1 encumbrance of a primary residence, principal employment, or
2 source of income; substantial loss of property set aside for
3 retirement, or for personal or family care and maintenance; or
4 substantial loss of payments received under a pension or retirement
5 plan or a government benefits program, or assets essential to the
6 health or welfare of the senior citizen or disabled person.

7 (3) Whether one or more senior citizens or disabled persons are
8 substantially more vulnerable than other members of the public to
9 the defendant's conduct because of age, poor health or infirmity,
10 impaired understanding, restricted mobility, or disability, and
11 actually suffered substantial physical, emotional, or economic
12 damage resulting from the defendant's conduct.

13 (d) A court of competent jurisdiction hearing an action pursuant
14 to this section may make orders and judgments as necessary to
15 restore to a senior citizen or disabled person money or property,
16 real or personal that may have been acquired by means of a
17 violation of this chapter. Restitution ordered pursuant to this
18 subdivision shall be given priority over recovery of a civil penalty
19 designated by the court as imposed pursuant to subdivision (a),
20 but shall not be given priority over a civil penalty imposed pursuant
21 to subdivision (a) of Section 17206. If the court determines that
22 full restitution cannot be made to those senior citizens or disabled
23 persons, either at the time of judgment or by a future date
24 determined by the court, then restitution under this subdivision
25 shall be made on a pro rata basis depending on the amount of loss.

26 SEC. 4. Section 1761 of the Civil Code is amended to read:

27 1761. As used in this title:

28 (a) "Goods" means tangible chattels bought or leased for use
29 primarily for personal, family, or household purposes, including
30 certificates or coupons exchangeable for these goods, and including
31 goods that, at the time of the sale or subsequently, are to be so
32 affixed to real property as to become a part of real property,
33 whether or not they are severable from the real property.

34 (b) "Services" means work, labor, and services for other than
35 a commercial or business use, including services furnished in
36 connection with the sale or repair of goods.

37 (c) "Person" means an individual, partnership, corporation,
38 limited liability company, association, or other group, however
39 organized.

(d) “Consumer” means an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes.

(e) “Transaction” means an agreement between a consumer and another person, whether or not the agreement is a contract enforceable by action, and includes the making of, and the performance pursuant to, that agreement.

(f) “Senior citizen” means a person who is 65 years of age or older.

(g) “Disabled person” means a person who has a physical or mental impairment that substantially limits one or more major life activities.

(1) As used in this subdivision, “physical or mental impairment” means any of the following:

(A) A physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) A mental or psychological disorder, including intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. “Physical or mental impairment” includes, but is not limited to, diseases and conditions that include orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, and emotional illness.

(2) “Major life activities” means functions that include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(h) “Home solicitation” means a transaction made at the consumer’s primary residence, except those transactions initiated by the consumer. A consumer response to an advertisement is not a home solicitation.

SEC. 5. Section 8769 of the Education Code is amended to read:

8769. The county superintendent of schools may, with the approval of the county board of education, lease real or personal property for the purpose of care, teaching, and training of physically handicapped children or children with intellectual

1 disabilities if the property is not required for outdoor science
2 education and conservation education, upon the terms and
3 conditions that are agreed upon.

4 SEC. 6. Section 16191 of the Education Code is amended to
5 read:

6 16191. As used in this article, “exceptional children” means
7 physically handicapped pupils, pupils with intellectual disabilities,
8 educationally handicapped pupils, multihandicapped pupils, or
9 pupils enrolled in development centers for the handicapped required
10 or allowed to be educated pursuant to Part 30 (commencing with
11 Section 56000).

12 SEC. 7. Section 16195 of the Education Code is amended to
13 read:

14 16195. Allocations under this article may be made in the
15 amount as may be necessary, and in the manner as to distribute
16 the available funds equitably among school districts, giving
17 consideration to the needs of each district and the number of
18 children within each district who are blind, partially seeing,
19 aphasic, deaf, hard of hearing, orthopedically impaired, or have
20 an intellectual disability, or who are health impaired,
21 multihandicapped, speech handicapped, educationally handicapped,
22 or enrolled in development centers for the handicapped.

23 In computing the number of those children, there shall be
24 included all of the following:

25 (a) The number of them residing in the district.

26 (b) The number of handicapped minors who are actually living
27 within the district five or more days a week, although their legal
28 residence may be outside the district, and who are educated
29 pursuant to former Section 56708, as enacted by Section 2 of
30 Chapter 1010 of the Statutes of 1976.

31 (c) The number of them who reside outside of the district, except
32 those described in subdivision (b), and who are to be educated by
33 the district, excluding minors with intellectual disabilities within
34 former Section 56501, as amended by Section 58 of Chapter 1247
35 of the Statutes of 1977, who reside within a district having an
36 average daily attendance of 900 or more and that does not meet
37 the requirements of Section 16058 concerning outstanding bonded
38 indebtedness.

39 Allocations for housing and equipment for minors having speech
40 defects or disorders shall be allowed in new schools constructed

1 after July 1, 1968, and in existing schools constructed between
2 July 1, 1933, and July 1, 1968. The housing and equipment shall
3 be designed and provided to permit their utilization for remedial
4 and other special services including speech therapy, speech reading
5 (lipreading), and auditory training for the speech and hearing
6 handicapped, screening and testing for speech and hearing defects,
7 or both, psychological testing of exceptional children, subject
8 matter tutoring of exceptional children, and other specialized
9 activities required by these children. In addition to the maximum
10 building area allowances provided in Sections 16047, 16052,
11 16053, and 16054, not more than an additional 200 square feet of
12 building area shall be allowed for each new school so planned and
13 constructed.

14 Each existing school, constructed between July 1, 1933, and July
15 1, 1968, shall be allowed not more than an additional 200 square
16 feet of building area only for construction thereon of a new speech
17 facility. At the option of the applicant district, the board may
18 allocate funds to convert existing facilities or to provide a
19 combination of new construction and conversion of existing
20 facilities to provide housing for minors having speech defects or
21 disorders, provided the cost of the conversion or combination of
22 new construction and conversion does not exceed the computed
23 cost for 200 square feet of new classroom construction based upon
24 cost standards adopted by the board. At the further option of the
25 applicant district, and in lieu of new building construction or
26 conversion, the board may allocate funds for the acquisition of
27 mobile speech therapy facilities, provided the cost of the mobile
28 facilities does not exceed the combined computed cost for 200
29 square feet of new classroom construction, based upon cost
30 standards adopted by the board, at all schools that will be served
31 by the mobile facility.

32 SEC. 8. Section 16196 of the Education Code is amended to
33 read:

34 16196. Notwithstanding any provision of this article to the
35 contrary, apportionments for the construction of facilities and the
36 purchase of essential furniture and equipment for the education of
37 exceptional children may, subject to the approval of the State
38 Department of Education, be made to a school district not otherwise
39 eligible to receive apportionments under Article 1 (commencing
40 with Section 16000) and Article 2 (commencing with Section

1 16150) of this chapter, for the education of blind, partially seeing,
2 aphasic, deaf, hard-of-hearing, orthopedically impaired or other
3 health-impaired, multihandicapped, and educationally handicapped
4 minors, minors with intellectual disabilities, pupils having speech
5 defects or disorders, or pupils enrolled in development centers for
6 the handicapped.

7 The State Department of Education may approve applications
8 if the facilities will be used by a county superintendent of schools
9 required to educate physically handicapped minors pursuant to
10 former Section 1850, as enacted by Section 2 of Chapter 1010 of
11 the Statutes of 1976, and minors with intellectual disabilities
12 pursuant to former Section 1880, as enacted by Section 2 of
13 Chapter 1010 of the Statutes of 1976. A school district may educate
14 these minors by agreement with a county superintendent of schools
15 required to educate these minors. Priority in the use of the facilities
16 shall be given to pupils from districts other than the applicant
17 district.

18 Except as otherwise provided in this section, not more than 50
19 percent of the amount of an apportionment made pursuant to this
20 section shall be repaid. Repayments shall be made in the following
21 manner: 50 percent of the amount of the apportionment shall be
22 repaid in full with interest by the district, in the annual amounts
23 and at the interest rate over the period as the State Allocation Board
24 may determine, not to exceed 20 years from the date the
25 apportionment became final. In a school year in which 50 percent
26 or more of the pupils in average daily attendance, as determined
27 by the county superintendent of schools, and served by the facilities
28 are not pupils from districts other than the applicant district, the
29 repayment for the succeeding fiscal year shall be an amount that
30 would have been payable if the district had been required to repay
31 100 percent of the apportionment over that period.

32 The county board of supervisors of the county whose
33 superintendent of schools conducts classes in the facility during
34 any fiscal year shall at that time or times within the fiscal year that
35 may be agreed upon between the county and the school district,
36 but in any case not later than the end of the fiscal year, pay to the
37 school district having the obligation to repay the apportionment
38 made under this section for the construction of the facility, an
39 amount equal to 80 percent of the amount the district is required

1 to repay in the fiscal year with respect to the apportionment
2 described above.

3 The county board of supervisors shall raise the amount required
4 through a general tax levy on the property within the participating
5 districts, or through a tuition charge not to exceed one hundred
6 sixty dollars (\$160) a year per pupil by the county superintendent
7 of schools to the school districts of residence of pupils attending
8 the facility other than the district having the obligation to repay,
9 or through a combination of these.

10 The county superintendent of schools shall notify the county
11 board of supervisors of his or her intention to approve a school
12 district's application for an allocation under this article before he
13 or she approves the application.

14 SEC. 9. Section 16200 of the Education Code is amended to
15 read:

16 16200. Notwithstanding any provision of this article to the
17 contrary, the board may make apportionments to school districts
18 not otherwise eligible to receive apportionments under Article 1
19 (commencing with Section 16000) and Article 2 (commencing
20 with Section 16150) for the construction of special education
21 facilities and the purchase of essential furniture and equipment for
22 the purpose of either or both of the following: (1) educating those
23 physically handicapped and educationally handicapped pupils and
24 pupils with intellectual disabilities who regularly reside in an
25 established, licensed children's institution or family home and are
26 being educated pursuant to former Section 42902, as amended by
27 Section 1 of Chapter 1173 of the Statutes of 1977, and (2)
28 educating handicapped pupils in development centers for
29 handicapped pupils pursuant to former Article 1 (commencing
30 with Section 56800) of Chapter 6 of Part 30, as enacted by Section
31 2 of Chapter 1010 of the Statutes of 1976.

32 Only 50 percent of any amounts allocated and disbursed to a
33 district under this section shall be repaid by the district. Each
34 disbursement shall be repaid in 20 equal annual installments,
35 including interest as determined by the board, and shall be
36 computed and withheld by the Controller. The first computation
37 of repayment of any disbursement shall be made in the fiscal year
38 following the disbursement and shall during the next fiscal year
39 be deducted in equal amounts from the February, March, April,
40 and May installments of the apportionment made to the district

1 from the State School Fund under Sections 41330 to 41343,
2 inclusive, and Sections 41600 to 41972, inclusive.

3 SEC. 10. Section 41306 of the Education Code is amended to
4 read:

5 41306. The Superintendent of Public Instruction shall also
6 allow as otherwise provided in Section 41304 for the driver training
7 instruction necessary to be safely tested for a driver's license at
8 the Department of Motor Vehicles, those physically handicapped
9 pupils, pupils with intellectual disabilities who come within the
10 provisions of former Section 56501, as amended by Chapter 1247
11 of the Statutes of 1977, and educationally handicapped pupils who
12 are in attendance in a public secondary school in California that
13 offers qualified instruction, and who may qualify for a driver's
14 license, or other license, issued by the Department of Motor
15 Vehicles, a total allowance not to exceed two hundred ninety
16 dollars (\$290) including the reimbursement provisions set forth in
17 Section 41900 to each school district and county superintendent
18 of schools. All driver training for pupils herein described shall be
19 provided by qualified teachers, as defined by Sections 41906 and
20 41907. This section may not be applied if reimbursement allowable
21 under Sections 41900 to 41912, inclusive, is sufficient to meet the
22 total cost of instruction as herein described.

23 It is the intent of the Legislature that driver training instruction
24 be provided to pupils as a part of the high school curriculum, and
25 the Legislature finds and declares that exceptional children are
26 entitled to the benefit of that instruction so far as their individual
27 capabilities permit, understanding that those pupils herein described
28 often require individualized and amplified driver training
29 instruction in order to succeed in becoming safe operators of motor
30 vehicles. Since without a means of self-transportation much of the
31 overall program of education and rehabilitation provided for by
32 the Legislature would be of little avail to the person without the
33 mobility required to become a productive and well-adjusted
34 member of society, the Legislature further declares that it is
35 incumbent upon the state to share in the cost of providing a most
36 needed and desirable program of driver training instruction for
37 these exceptional children.

38 SEC. 11. Section 41401 of the Education Code is amended to
39 read:

40 41401. For the purposes of this article:

1 (a) “Administrative employee” means an employee of a school
2 district, employed in a position requiring certification
3 qualifications, who does not come within the definition set forth
4 in subdivision (c) or (d).

5 (b) “Classified employee” means an employee of a school
6 district, employed in a position not requiring certification
7 qualifications.

8 (c) “Pupil services employee” means an employee of a school
9 district, employed in a position requiring a standard designated
10 services credential, health and development credential, or a
11 librarian credential, who performs direct services to pupils. “Pupil
12 services employee” includes, but is not limited to, in-school
13 librarians, school nurses, assistant in-school librarians, audiovisual
14 personnel, counselors, psychologists, psychometrists, guidance
15 and welfare personnel, attendance personnel, school social workers,
16 and all other certificated personnel performing pupil-personnel,
17 health, or librarian services.

18 (d) “Teacher” means an employee of a school district, employed
19 in a position requiring certification qualifications, whose duties
20 require him or her to provide direct instruction to pupils in the
21 schools of that district for the full time for which he or she is
22 employed. “Teacher” includes, but is not limited to, teachers of
23 special classes, teachers of exceptional children, teachers of pupils
24 with physical disabilities, teachers of minors with intellectual
25 disabilities, substitute teachers, instructional television teachers,
26 specialist mathematics teachers, specialist reading teachers, home
27 and hospital teachers, and learning disability group teachers.
28 Instructional preparation time shall be counted as part of the teacher
29 full-time equivalent, including, but not limited to, mentor teacher
30 or department chairperson time.

31 SEC. 12. Section 51765 of the Education Code is amended to
32 read:

33 51765. The governing board of a school district that establishes
34 and supervises a work experience education program in which
35 pupils with intellectual disabilities are employed in part-time jobs
36 may use funds derived from any source, to the extent permissible
37 by appropriate law or regulation, to pay the wages of pupils so
38 employed.

39 The Legislature hereby finds and declares that the authority
40 granted by this section is necessary to ensure that the work

1 experience education program will continue to provide maximum
2 educational benefit to students, particularly pupils with intellectual
3 disabilities, and that the program is deemed to serve a public
4 purpose.

5 SEC. 13. Section 854.2 of the Government Code is amended
6 to read:

7 854.2. As used in this chapter, “mental institution” means a
8 state hospital for the care and treatment of the mentally disordered
9 or persons with intellectual disabilities, the California
10 Rehabilitation Center referred to in Section 3300 of the Welfare
11 and Institutions Code, or a county psychiatric hospital.

12 SEC. 14. Section 6514 of the Government Code is amended
13 to read:

14 6514. A state department or agency concerned with the
15 provisions of services or facilities to persons with intellectual
16 disabilities and their families may enter into agreements under this
17 chapter.

18 SEC. 15. Section 12428 of the Government Code is amended
19 to read:

20 12428. In the event either the Governor or the Legislature
21 should obtain federal approval to transfer programs receiving
22 federal support for persons who have an intellectual disability or
23 mental disorder from one state department to another state
24 department under the provisions of Public Law 90-577
25 (Intergovernmental Cooperation Act of 1968), the Controller shall,
26 upon approval of the Director of Finance, transfer to a department
27 designated by the Governor the parts of the appropriation of the
28 other departments that are related to programs for persons who
29 have an intellectual disability or mental disorder, provided further,
30 that the transfer shall enable the state to make maximum utilization
31 of available state and federal funds.

32 SEC. 16. Section 12926 of the Government Code is amended
33 to read:

34 12926. As used in this part in connection with unlawful
35 practices, unless a different meaning clearly appears from the
36 context:

37 (a) “Affirmative relief” or “prospective relief” includes the
38 authority to order reinstatement of an employee, awards of backpay,
39 reimbursement of out-of-pocket expenses, hiring, transfers,
40 reassignments, grants of tenure, promotions, cease and desist

1 orders, posting of notices, training of personnel, testing, expunging
2 of records, reporting of records, and any other similar relief that
3 is intended to correct unlawful practices under this part.

4 (b) “Age” refers to the chronological age of an individual who
5 has reached his or her 40th birthday.

6 (c) “Employee” does not include an individual employed by his
7 or her parents, spouse, or child, or an individual employed under
8 a special license in a nonprofit sheltered workshop or rehabilitation
9 facility.

10 (d) “Employer” includes a person regularly employing five or
11 more persons, or a person acting as an agent of an employer,
12 directly or indirectly, the state or a political or civil subdivision of
13 the state, and cities, except as follows:

14 “Employer” does not include a religious association or
15 corporation not organized for private profit.

16 (e) “Employment agency” includes a person undertaking for
17 compensation to procure employees or opportunities to work.

18 (f) “Essential functions” means the fundamental job duties of
19 the employment position the individual with a disability holds or
20 desires. “Essential functions” does not include the marginal
21 functions of the position.

22 (1) A job function may be considered essential for any of several
23 reasons, including, but not limited to, any one or more of the
24 following:

25 (A) The function may be essential because the reason the
26 position exists is to perform that function.

27 (B) The function may be essential because of the limited number
28 of employees available among whom the performance of that job
29 function can be distributed.

30 (C) The function may be highly specialized, so that the
31 incumbent in the position is hired for his or her expertise or ability
32 to perform the particular function.

33 (2) Evidence of whether a particular function is essential
34 includes, but is not limited to, the following:

35 (A) The employer’s judgment as to which functions are essential.

36 (B) Written job descriptions prepared before advertising or
37 interviewing applicants for the job.

38 (C) The amount of time spent on the job performing the function.

39 (D) The consequences of not requiring the incumbent to perform
40 the function.

1 (E) The terms of a collective bargaining agreement.

2 (F) The work experiences of past incumbents in the job.

3 (G) The current work experience of incumbents in similar jobs.

4 (g) (1) “Genetic information” means, with respect to an
5 individual, information about any of the following:

6 (A) The individual’s genetic tests.

7 (B) The genetic tests of family members of the individual.

8 (C) The manifestation of a disease or disorder in family members
9 of the individual.

10 (2) “Genetic information” includes a request for, or receipt of,
11 genetic services, or participation in clinical research that includes
12 genetic services, by an individual or a family member of the
13 individual.

14 (3) “Genetic information” does not include information about
15 the sex or age of an individual.

16 (h) “Labor organization” includes an organization that exists
17 and is constituted for the purpose, in whole or in part, of collective
18 bargaining or of dealing with employers concerning grievances,
19 terms or conditions of employment, or of other mutual aid or
20 protection.

21 (i) “Medical condition” means either of the following:

22 (1) A health impairment related to or associated with a diagnosis
23 of cancer or a record or history of cancer.

24 (2) Genetic characteristics. For purposes of this section, “genetic
25 characteristics” means either of the following:

26 (A) A scientifically or medically identifiable gene or
27 chromosome, or combination or alteration thereof, that is known
28 to be a cause of a disease or disorder in a person or his or her
29 offspring, or that is determined to be associated with a statistically
30 increased risk of development of a disease or disorder, and that is
31 presently not associated with any symptoms of a disease or
32 disorder.

33 (B) Inherited characteristics that may derive from the individual
34 or family member, that are known to be a cause of a disease or
35 disorder in a person or his or her offspring, or that are determined
36 to be associated with a statistically increased risk of development
37 of a disease or disorder, and that are presently not associated with
38 any symptoms of a disease or disorder.

39 (j) “Mental disability” includes, but is not limited to, all of the
40 following:

(1) Having a mental or psychological disorder or condition, including an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) “Limits” shall be determined without regard to mitigating measures, including medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) “Major life activities” shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

“Mental disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) “On the bases enumerated in this part” means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, or sexual orientation.

(l) “Physical disability” includes, but is not limited to, all of the following:

(1) Having a physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

1 (A) Affects one or more of the following body systems:
2 neurological, immunological, musculoskeletal, special sense
3 organs, respiratory, including speech organs, cardiovascular,
4 reproductive, digestive, genitourinary, hemic and lymphatic, skin,
5 and endocrine.

6 (B) Limits a major life activity. For purposes of this section:

7 (i) “Limits” shall be determined without regard to mitigating
8 measures, including medications, assistive devices, prosthetics, or
9 reasonable accommodations, unless the mitigating measure itself
10 limits a major life activity.

11 (ii) A physiological disease, disorder, condition, cosmetic
12 disfigurement, or anatomical loss limits a major life activity if it
13 makes the achievement of the major life activity difficult.

14 (iii) “Major life activities” shall be broadly construed and
15 includes physical, mental, and social activities and working.

16 (2) Any other health impairment not described in paragraph (1)
17 that requires special education or related services.

18 (3) Having a record or history of a disease, disorder, condition,
19 cosmetic disfigurement, anatomical loss, or health impairment
20 described in paragraph (1) or (2), which is known to the employer
21 or other entity covered by this part.

22 (4) Being regarded or treated by the employer or other entity
23 covered by this part as having, or having had, a physical condition
24 that makes achievement of a major life activity difficult.

25 (5) Being regarded or treated by the employer or other entity
26 covered by this part as having, or having had, a disease, disorder,
27 condition, cosmetic disfigurement, anatomical loss, or health
28 impairment that has no present disabling effect but may become
29 a physical disability as described in paragraph (1) or (2).

30 (6) “Physical disability” does not include sexual behavior
31 disorders, compulsive gambling, kleptomania, pyromania, or
32 psychoactive substance use disorders resulting from the current
33 unlawful use of controlled substances or other drugs.

34 (m) Notwithstanding subdivisions (j) and (l), if the definition
35 of “disability” used in the federal Americans with Disabilities Act
36 of 1990 (P.L. 101-336) would result in broader protection of the
37 civil rights of individuals with a mental disability or physical
38 disability, as defined in subdivision (j) or (l), or would include a
39 medical condition not included within those definitions, then that
40 broader protection or coverage shall be deemed incorporated by

reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (l).

(n) “Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, or sexual orientation” includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(o) “Reasonable accommodation” may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials, or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(p) “Religious creed,” “religion,” “religious observance,” “religious belief,” and “creed” include all aspects of religious belief, observance, and practice.

(q) “Sex” includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. “Sex” also includes, but is not limited to, a person’s gender. “Gender” means sex, and includes a person’s gender identity and gender expression. “Gender expression” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

(r) “Sexual orientation” means heterosexuality, homosexuality, and bisexuality.

(s) “Supervisor” means an individual having the authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(t) “Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors:

1 (1) The nature and cost of the accommodation needed.

2 (2) The overall financial resources of the facilities involved in
3 the provision of the reasonable accommodations, the number of
4 persons employed at the facility, and the effect on expenses and
5 resources or the impact otherwise of these accommodations upon
6 the operation of the facility.

7 (3) The overall financial resources of the covered entity, the
8 overall size of the business of a covered entity with respect to the
9 number of employees, and the number, type, and location of its
10 facilities.

11 (4) The type of operations, including the composition, structure,
12 and functions of the workforce of the entity.

13 (5) The geographic separateness, administrative, or fiscal
14 relationship of the facility or facilities.

15 SEC. 17. Section 14670.1 of the Government Code is amended
16 to read:

17 14670.1. Notwithstanding Section 14670, the Director of
18 General Services, with the consent of the State Department of
19 ~~Mental Health~~ *State Hospitals*, may let to a nonprofit corporation,
20 for the purpose of conducting an educational and work program
21 for persons with intellectual disabilities, and for a period not to
22 exceed 50 years, real property not exceeding 10 acres located
23 within the grounds of the Napa State Hospital.

24 The lease authorized by this section shall be nonassignable and
25 shall be subject to periodic review every five years. The review
26 shall be made by the Director of General Services, who shall do
27 both of the following:

28 (a) Assure the state that the original purposes of the lease are
29 being carried out.

30 (b) Determine what, if any, adjustment should be made in the
31 terms of the lease.

32 The lease shall also provide for an initial capital outlay by the
33 lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976.
34 The capital outlay may be, or may have been, contributed before
35 or after the effective date of the act adding this section.

36 SEC. 18. Section 14670.2 of the Government Code, as amended
37 by Section 1 of Chapter 65 of the Statutes of 1992, is amended to
38 read:

39 14670.2. Notwithstanding Section 14670, the Director of
40 General Services, with the consent of the State Department of

1 ~~Mental Health~~ *State Hospitals*, may, in the best interests of the
2 state, let to a public governmental agency, for the purpose of
3 locating and conducting its training program for people with
4 intellectual disabilities, and for locating and conducting a child-care
5 facility, and for a period not to exceed 50 years, real property not
6 exceeding 10 acres located within the grounds of the Napa State
7 Hospital. For the additional purpose of establishing an educational
8 park, the director may, with the consent of the department,
9 renegotiate the lease, for a period not to exceed 50 years, which
10 period shall commence January 1, 1993. For the purposes of this
11 section, “educational park” means a conglomerate of educational
12 services, including, but not limited to, a children’s center, a
13 preschool for severely disabled children, adult educational services,
14 administrative offices, a community school, and a media services
15 building.

16 The lease authorized by this section shall be nonassignable and
17 shall be subject to periodic review every five years. That review
18 shall be made by the Director of General Services, who shall do
19 both of the following:

20 (a) Assure the state the purposes of the lease are being carried
21 out.

22 (b) Determine what, if any, adjustment should be made in the
23 terms of the lease.

24 The lease shall also provide for the establishment of a school
25 building facility by the lessee prior to July 1, 1977. That facility
26 shall not be established until after the effective date of the act
27 amending this section.

28 SEC. 19. Section 14670.3 of the Government Code is amended
29 to read:

30 14670.3. Notwithstanding Section 14670, the Director of
31 General Services, with the consent of the State Department of
32 Mental Health, may let to a nonprofit corporation, for the purpose
33 of conducting an educational and work program for persons with
34 intellectual disabilities, and for a period not to exceed 55 years,
35 real property not exceeding five acres located within the grounds
36 of the Fairview State Hospital.

37 The lease authorized by this section shall be nonassignable and
38 shall be subject to periodic review every five years. The review
39 shall be made by the Director of General Services, who shall do
40 both of the following:

1 (a) Assure the state that the original purposes of the lease are
2 being carried out.

3 (b) Determine what, if any, adjustment should be made in the
4 terms of the lease.

5 The lease shall also provide for an initial capital outlay by the
6 lessee of thirty thousand dollars (\$30,000) prior to January 1, 1976.
7 The capital outlay may be, or may have been, contributed before
8 or after the effective date of the act adding this section.

9 SEC. 20. Section 14670.5 of the Government Code is amended
10 to read:

11 14670.5. Notwithstanding Section 14670, the Director of
12 General Services, with the consent of the State Department of
13 Mental Health may let to a nonprofit corporation, for the purpose
14 of establishing and maintaining a rehabilitation center for persons
15 with intellectual disabilities, for a period not exceeding 20 years,
16 real property, not exceeding five acres, located within the grounds
17 of the Fairview State Hospital in Orange County, and that is
18 retained by the state primarily to provide a peripheral buffer area,
19 or zone, between real property that the state hospital is located on
20 and adjacent real property, if the director deems the letting is in
21 the best interests of the state.

22 SEC. 21. Section 14672.1 of the Government Code is amended
23 to read:

24 14672.1. Notwithstanding Section 14670, the Director of
25 General Services, with the consent of the Department of
26 Corrections and Rehabilitation, may let to a nonprofit corporation,
27 for the purpose of conducting an educational and work program
28 for persons with intellectual disabilities, and for a period not to
29 exceed 50 years, real property not exceeding 10 acres, located
30 within the grounds of the Medical Facility at Vacaville, California.

31 A lease executed pursuant to this section shall include a provision
32 that the lease shall be canceled if permanent facilities are not
33 constructed on the leased land within five years after the effective
34 date of the amendments to this section enacted at the 1967 Regular
35 Session of the Legislature.

36 A lease executed pursuant to this section may be assigned or
37 sublet in whole or in part by the lessee nonprofit corporation to
38 any public agency with the approval of the Director of General
39 Services and the Department of Corrections and Rehabilitation.

1 SEC. 22. Section 14672.92 of the Government Code is amended
2 to read:

3 14672.92. Notwithstanding Section 14670, the Director of
4 General Services, with the consent of the State Department of
5 Developmental Services, may let to a nonprofit corporation, for
6 the purpose of conducting an educational and work program for
7 persons with intellectual disabilities, and for a period not to exceed
8 50 years, real property not exceeding 18.50 acres located within
9 the grounds of the Camarillo State Hospital at 1732 Lewis Road
10 in the City of Camarillo.

11 The lease authorized by this section shall be nonassignable and
12 shall be subject to periodic review every five years. The review
13 shall be made by the Director of General Services and the Director
14 of Developmental Services who shall do all of the following:

15 (a) Assure the state the original purposes of the lease are being
16 carried out.

17 (b) Determine what, if any, adjustment should be made in the
18 terms of the lease.

19 SEC. 23. Section 16813 of the Government Code is amended
20 to read:

21 16813. Bonds of the State of California shall be prepared,
22 issued, and sold in the amount of one hundred million dollars
23 (\$100,000,000), in such denominations, to be numbered, to bear
24 such dates, and to bear such rate of interest as shall be determined
25 by the Legislature.

26 The proceeds of such bonds shall be used:

27 (a) Subject to such legislation as the Legislature may, from time
28 to time, enact, to provide loans and grants to school districts of the
29 state for use in purchasing and improving school sites, the
30 purchasing of furniture and equipment for schools, and the planning
31 and constructing, reconstructing, repairing, altering, and making
32 additions to, school buildings.

33 (b) Subject to such legislation as the Legislature may, from time
34 to time, enact, to provide loans and grants to school districts for
35 assistance in providing necessary housing and equipment for the
36 education of individuals who have exceptional needs, as that term
37 is defined in Section 56026 of the Education Code.

38 (c) To pay the expenses that may be incurred in preparing,
39 advertising, issuing, and selling the bonds, and in administering

1 and directing the expenditure of the moneys realized from the sale
2 of such bonds.

3 The issuance, signing, countersigning, endorsing, and selling of
4 the bonds herein provided for, and the interest coupons thereon,
5 the place and method of payment of principal and interest thereon,
6 the procedure for initiating, advertising and holding sales thereof,
7 and the performance by the several state boards and state officers
8 of their respective duties in connection therewith; and all other
9 provisions, terms, and conditions relating to the bonds, shall be as
10 provided by the Legislature.

11 The Legislature may appropriate money to be expended in
12 addition to or in lieu of the money received from the sale of the
13 bonds sold under the authority of this section. The money so
14 appropriated shall be expended pursuant to subdivision (a) of this
15 section. If the Legislature appropriates money in lieu of the money
16 received from the sale of the bonds, the total amount of bonds
17 required to be sold pursuant to this section shall be reduced by the
18 amount so appropriated.

19 The Legislature shall pass all laws, general or special, necessary
20 or convenient to carry into effect the provisions of this section.
21 Such laws may provide for the allocation of funds to school
22 districts pursuant to this section by the State Allocation Board or
23 a similar agency and in that event, notwithstanding any other
24 provision of this Constitution, Members of the Legislature who
25 are required to meet with such board shall have equal rights and
26 duties with the nonlegislative members to vote and act upon matters
27 pending before such board.

28 The Legislature shall require each district receiving an allocation
29 of money from the sale of bonds pursuant to this section for the
30 purposes prescribed in subdivision (a) of this section to repay such
31 money to the state on such terms and in such amounts as may be
32 within the ability of the district to repay.

33 The Legislature may require each district receiving an allocation
34 of money from the sale of bonds pursuant to this section for the
35 purposes prescribed in subdivision (b) of this section to repay such
36 money to the state on such terms and in such amounts as the
37 Legislature deems proper.

38 The people of the State of California in adopting this section
39 hereby declare that it is in the interests of the state and of the people
40 thereof for the state to aid school districts of the state in providing

1 necessary school sites and buildings for the pupils of the public
2 school system, such system being a matter of general concern
3 inasmuch as the education of the children of the state is an
4 obligation and function of the state.

5 SEC. 24. Section 16814 of the Government Code is amended
6 to read:

7 16814. Bonds of the State of California shall be prepared,
8 issued, and sold in the amount of two hundred twenty million
9 dollars (\$220,000,000), in such denominations, to be numbered,
10 to bear such dates, and to bear such rate of interest as shall be
11 determined by the Legislature.

12 The proceeds of such bonds shall be used:

13 (a) Subject to such legislation as the Legislature may, from time
14 to time, enact, to provide loans and grants to school districts of the
15 state for use in purchasing and improving school sites, the
16 purchasing of furniture and equipment for schools, and the planning
17 and constructing, reconstructing, repairing, altering, and making
18 additions to, school buildings.

19 (b) Subject to such legislation as the Legislature may, from time
20 to time, enact, to provide loans and grants to school districts for
21 assistance in providing necessary housing and equipment for the
22 education of individuals who have exceptional needs, as that term
23 is defined in Section 56026 of the Education Code.

24 (c) To pay the expenses that may be incurred in preparing,
25 advertising, issuing, and selling the bonds, and in administering
26 and directing the expenditure of the moneys realized from the sale
27 of such bonds.

28 (d) To repay, as provided by law, any money appropriated from
29 the Investment Fund at the 1958 First Extraordinary Session for
30 state school building aid.

31 The issuance, signing, countersigning, endorsing, and selling of
32 the bonds herein provided for, and the interest coupons thereon,
33 the place and method of payment of principal and interest thereon,
34 the procedure for initiating, advertising, and holding sales thereof,
35 and the performance by the several state boards and state officers
36 of their respective duties in connection therewith; and all other
37 provisions, terms, and conditions relating to the bonds, shall be as
38 provided by the Legislature.

39 The Legislature may appropriate money to be expended in
40 addition to or in lieu of the money received from the sale of the

1 bonds sold under the authority of this section. The money so
2 appropriated shall be expended pursuant to subdivision (a) of this
3 section. If the Legislature appropriates money in lieu of the money
4 received from the sale of the bonds, the total amount of bonds
5 required to be sold pursuant to this section shall be reduced by the
6 amount so appropriated.

7 The Legislature shall pass all laws, general or special, necessary
8 or convenient to carry into effect the provisions of this section.
9 Such laws may provide for the allocation of funds to school
10 districts pursuant to this section by the State Allocation Board or
11 a similar agency and in that event, notwithstanding any other
12 provision of this Constitution, Members of the Legislature who
13 are required to meet with such board shall have equal rights and
14 duties with the nonlegislative members to vote and act upon matters
15 pending before such board.

16 The Legislature shall require each district receiving an allocation
17 of money from the sale of bonds pursuant to this section for the
18 purposes prescribed in subdivision (a) of this section to repay such
19 money to the state on such terms and in such amounts as may be
20 within the ability of the district to repay.

21 The Legislature may require each district receiving an allocation
22 of money from the sale of bonds pursuant to this section for the
23 purposes prescribed in subdivision (b) of this section to repay such
24 money to the state on such terms and in such amounts as the
25 Legislature deems proper.

26 The people of the State of California in adopting this section
27 hereby declare that it is in the interests of the state and of the people
28 thereof for the state to aid school districts of the state in providing
29 necessary school sites and buildings for the pupils of the public
30 school system, such system being a matter of general concern
31 inasmuch as the education of the children of the state is an
32 obligation and function of the state.

33 SEC. 25. Section 16816 of the Government Code is amended
34 to read:

35 16816. Bonds of the State of California shall be prepared,
36 issued, and sold in the amount of three hundred million dollars
37 (\$300,000,000), in such denominations, to be numbered, to bear
38 such dates, and to bear such rate of interest as shall be determined
39 by the Legislature.

40 The proceeds of such bonds shall be used:

1 (a) Subject to such legislation as the Legislature may, from time
2 to time, enact, to provide loans and grants to school districts of the
3 state for use in purchasing and improving school sites, the
4 purchasing of furniture and equipment for schools, and the planning
5 and constructing, reconstructing, repairing, altering, and making
6 additions to, school buildings.

7 (b) Subject to such legislation as the Legislature may, from time
8 to time, enact, to provide loans and grants to school districts for
9 assistance in providing necessary housing and equipment for the
10 education of individuals who have exceptional needs, as that term
11 is defined in Section 56026 of the Education Code.

12 (c) To pay the expenses that may be incurred in preparing,
13 advertising, issuing, and selling the bonds, and in administering
14 and directing the expenditure of the moneys realized from the sale
15 of such bonds.

16 (d) To repay, as provided by law, any money appropriated from
17 the General Fund at the 1960 First Extraordinary Session for state
18 school building aid.

19 The issuance, signing, countersigning, endorsing, and selling of
20 the bonds herein provided for, and the interest coupons thereon,
21 the place and method of payment of principal and interest thereon,
22 the procedure for initiating, advertising and holding sales thereof,
23 and the performance by the several state boards and state officers
24 of their respective duties in connection therewith; and all other
25 provisions, terms, and conditions relating to the bonds, shall be as
26 provided by the Legislature.

27 The Legislature may appropriate money to be expended in
28 addition to or in lieu of the money received from the sale of the
29 bonds sold under the authority of this section. The money so
30 appropriated shall be expended pursuant to subdivision (a) of this
31 section. If the Legislature appropriates money in lieu of the money
32 received from the sale of the bonds, the total amount of bonds
33 required to be sold pursuant to this section shall be reduced by the
34 amount so appropriated.

35 The Legislature shall pass all laws, general or special, necessary
36 or convenient to carry into effect the provisions of this section.
37 Such laws may provide for the allocation of funds to school
38 districts pursuant to this section by the State Allocation Board or
39 a similar agency. Notwithstanding any other provision of this
40 Constitution, Members of the Legislature who are required to meet

1 with such board shall have equal rights and duties with the
2 nonlegislative members to vote and act upon matters pending
3 before such board concerning this section or any other section of
4 the Constitution or legislative act authorizing the allocation of
5 funds to school districts for purposes the same or substantially the
6 same as those enumerated in this section.

7 The Legislature shall require each district receiving an allocation
8 of money from the sale of bonds pursuant to this section for the
9 purposes prescribed in subdivision (a) of this section to repay such
10 money to the state on such terms and in such amounts as may be
11 within the ability of the district to repay.

12 The Legislature may require each district receiving an allocation
13 of money from the sale of bonds pursuant to this section for the
14 purposes prescribed in subdivision (b) of this section to repay such
15 money to the state on such terms and in such amounts as the
16 Legislature deems proper.

17 The people of the State of California in adopting this section
18 hereby declare that it is in the interests of the state and of the people
19 thereof for the state to aid school districts of the state in providing
20 necessary school sites and buildings for the pupils of the public
21 school system, such system being a matter of general concern
22 inasmuch as the education of the children of the state is an
23 obligation and function of the state.

24 ~~SEC. 26. Section 1275.5 of the Health and Safety Code is~~
25 ~~amended to read:~~

26 ~~1275.5. (a) The regulations relating to the licensing of~~
27 ~~hospitals, previously adopted by the State Department of Public~~
28 ~~Health pursuant to Chapter 2 (commencing with Section 1250) of~~
29 ~~Division 2, and in effect immediately prior to July 1, 1973, shall~~
30 ~~remain in effect and shall be fully enforceable with respect to a~~
31 ~~hospital required to be licensed by this chapter, unless and until~~
32 ~~the regulations are readopted, amended, or repealed by the director.~~

33 ~~(b) The regulations relating to private institutions receiving or~~
34 ~~caring for any mentally disordered persons, persons with~~
35 ~~intellectual disabilities, and other incompetent persons, previously~~
36 ~~adopted by the former Department of Mental Hygiene pursuant to~~
37 ~~Chapter 1 (commencing with Section 7000) of Division 7 of the~~
38 ~~Welfare and Institutions Code, and in effect immediately prior to~~
39 ~~July 1, 1973, shall remain in effect and shall be fully enforceable~~
40 ~~with respect to a facility, establishment, or institution for the~~

1 ~~reception and care of mentally disordered persons, persons with~~
2 ~~intellectual disabilities, and other incompetent persons, required~~
3 ~~to be licensed by the provisions of this chapter, unless and until~~
4 ~~the regulations are readopted, amended, or repealed by the director.~~

5 (e) ~~All regulations relating to the licensing of psychiatric health~~
6 ~~facilities previously adopted by the former State Department of~~
7 ~~Health Services, pursuant to authority now vested in the State~~
8 ~~Department of Mental Health by Section 4080 of the Welfare and~~
9 ~~Institutions Code, and in effect immediately preceding September~~
10 ~~20, 1988, shall remain in effect and shall be fully enforceable by~~
11 ~~the State Department of Mental Health with respect to a facility~~
12 ~~or program required to be licensed as a psychiatric health facility,~~
13 ~~unless and until the regulations are readopted, amended, or repealed~~
14 ~~by the Director of Mental Health.~~

15 *SEC. 26. Section 1275.5 of the Health and Safety Code is*
16 *amended to read:*

17 1275.5. (a) The regulations relating to the licensing of
18 hospitals, ~~heretofore previously~~ adopted by the State Department
19 of Public Health pursuant to Chapter 2 (commencing with Section
20 ~~1400~~ 1250) of Division 2, and in effect immediately prior to July
21 1, 1973, shall remain in effect and shall be fully enforceable with
22 respect to ~~any a~~ hospital required to be licensed by this chapter,
23 unless and until the regulations are readopted, amended, or repealed
24 by the director.

25 (b) The regulations relating to private institutions receiving or
26 caring for any mentally disordered persons, ~~mentally retarded~~
27 ~~persons~~ *persons with intellectual disabilities*, and other incompetent
28 persons, ~~heretofore previously~~ adopted by the Department of
29 Mental Hygiene pursuant to Chapter 1 (commencing with Section
30 7000) of Division 7 of the Welfare and Institutions Code, and in
31 effect immediately prior to July 1, 1973, shall remain in effect and
32 shall be fully enforceable with respect to any facility,
33 establishment, or institution for the reception and care of mentally
34 disordered persons, ~~mentally retarded persons~~ *persons with*
35 *intellectual disabilities*, and other incompetent persons, required
36 to be licensed by the provisions of this ~~chapter~~ *chapter*, unless and
37 until ~~said the~~ regulations are readopted, amended, or repealed by
38 the director.

39 (c) (1) All regulations relating to the licensing of psychiatric
40 health facilities ~~heretofore previously~~ adopted by the State

1 Department of Health Services, pursuant to authority now vested
2 in the State Department of Mental Health by Section ~~5652.5~~ 4080
3 of the Welfare and Institutions Code, and in effect immediately
4 preceding September 20, 1988, shall remain in effect and shall be
5 fully enforceable by the State Department of Mental Health with
6 respect to ~~any~~ a facility or program required to be licensed as a
7 psychiatric health facility, unless and until *the regulations*
8 readopted, amended, or repealed by the Director of Mental Health.

9 (2) The State Department of Social Services shall succeed to
10 and be vested with all duties, powers, purposes, functions,
11 responsibilities, and jurisdiction of the State Department of Mental
12 Health, described in paragraph (1), as they relate to licensing
13 psychiatric health facilities.

14 SEC. 27. Section 1337.1 of the Health and Safety Code is
15 amended to read:

16 1337.1. A skilled nursing or intermediate care facility shall
17 adopt an approved training program that meets standards
18 established by the state department. The approved training program
19 shall consist of at least the following:

20 (a) An orientation program to be given to newly employed nurse
21 assistants prior to providing direct patient care in skilled nursing
22 or intermediate care facilities.

23 (b) (1) A precertification training program consisting of at least
24 60 classroom hours of training on basic nursing skills, patient
25 safety and rights, the social and psychological problems of patients,
26 and resident abuse prevention, recognition, and reporting pursuant
27 to subdivision (e). The 60 classroom hours of training may be
28 conducted within a skilled nursing or intermediate care facility or
29 in an educational institution.

30 (2) In addition to the 60 classroom hours of training required
31 under paragraph (1), the precertification training program shall
32 consist of at least 100 hours of supervised and on-the-job training
33 clinical practice. The 100 hours may consist of normal employment
34 as a nurse assistant under the supervision of either the director of
35 nurse training or a licensed nurse qualified to provide nurse
36 assistant training who has no other assigned duties while providing
37 the training.

38 (3) At least two hours of the 60 hours of classroom training and
39 at least four hours of the 100 hours of the supervised clinical
40 training shall address the special needs of persons with

1 developmental and mental disorders, including intellectual
2 disability, Alzheimer's disease, cerebral palsy, epilepsy, dementia,
3 Parkinson's disease, and mental illness.

4 (4) In a precertification training program subject to this
5 subdivision, credit shall be given for the training received in an
6 approved precertification training program adopted by another
7 skilled nursing or intermediate care facility.

8 (5) This subdivision shall not apply to a skilled nursing or
9 intermediate care facility that demonstrates to the state department
10 that it employs only nurse assistants with a valid certification.

11 (c) Continuing in-service training to assure continuing
12 competency in existing and new nursing skills.

13 (d) Each facility shall consider including training regarding the
14 characteristics and method of assessment and treatment of acquired
15 immunodeficiency syndrome (AIDS).

16 (e) (1) The approved training program shall include, within the
17 60 hours of classroom training, a minimum of six hours of
18 instruction on preventing, recognizing, and reporting instances of
19 resident abuse utilizing those courses developed pursuant to Section
20 13823.93 of the Penal Code, and a minimum of one hour of
21 instruction on preventing, recognizing, and reporting residents'
22 rights violations.

23 (2) A minimum of four hours of instruction on preventing,
24 recognizing, and reporting instances of resident abuse, including
25 instruction on preventing, recognizing, and reporting residents'
26 rights violations, shall be included within the total minimum hours
27 of continuing education or in-service training required and in effect
28 for certified nursing assistants.

29 SEC. 28. Section 1337.3 of the Health and Safety Code is
30 amended to read:

31 1337.3. (a) The department shall prepare and maintain a list
32 of approved training programs for nurse assistant certification.
33 The list shall include training programs conducted by skilled
34 nursing or intermediate care facilities, as well as local agencies
35 and education programs. In addition, the list shall include
36 information on whether a training center is currently training nurse
37 assistants, their competency test pass rates, and the number of
38 nurse assistants they have trained. Clinical portions of the training
39 programs may be obtained as on-the-job training, supervised by a
40 qualified director of staff development or licensed nurse.

(b) It shall be the duty of the department to inspect a representative sample of training programs. The department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the department shall examine each training center's trainees' competency test passage rate, and require each program to maintain an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate shall be calculated over a two-year period. If the department determines that a training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or Medicaid programs.

(2) (A) A certification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting pursuant to subdivision (e) of Section 1337.1. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution.

(B) In addition to the 60 classroom hours of training required under subparagraph (A), the certification program shall also consist of 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff development or a licensed nurse qualified to provide nurse assistant

1 training who has no other assigned duties while providing the
2 training.

3 (3) At least two hours of the 60 hours of classroom training and
4 at least four hours of the 100 hours of the supervised clinical
5 training shall address the special needs of persons with
6 developmental and mental disorders, including intellectual
7 disability, Alzheimer's disease, cerebral palsy, epilepsy, dementia,
8 Parkinson's disease, and mental illness.

9 (d) The department, in consultation with the State Department
10 of Education and other appropriate organizations, shall develop
11 criteria for approving training programs, that includes program
12 content for orientation, training, inservice and the examination for
13 testing knowledge and skills related to basic patient care services
14 and shall develop a plan that identifies and encourages career
15 ladder opportunities for certified nurse assistants. This group shall
16 also recommend, and the department shall adopt, regulation
17 changes necessary to provide for patient care when facilities utilize
18 noncertified nurse assistants who are performing direct patient
19 care. The requirements of this subdivision shall be established by
20 January 1, 1989.

21 (e) On or before January 1, 2004, the department, in consultation
22 with the State Department of Education, the American Red Cross,
23 and other appropriate organizations, shall do the following:

24 (1) Review the current examination for approved training
25 programs for certified nurse assistants to ensure the accurate
26 assessment of whether a nurse assistant has obtained the required
27 knowledge and skills related to basic patient care services.

28 (2) Develop a plan that identifies and encourages career ladder
29 opportunities for certified nurse assistants, including the application
30 of on-the-job postcertification hours to educational credits.

31 (f) A skilled nursing or intermediate care facility shall determine
32 the number of specific clinical hours within each module identified
33 by the department required to meet the requirements of subdivision
34 (d), subject to subdivisions (b) and (c). The facility shall consider
35 the specific hours recommended by the state department when
36 adopting the certification training program required by this chapter.

37 (g) This article shall not apply to a program conducted by any
38 church or denomination for the purpose of training the adherents
39 of the church or denomination in the care of the sick in accordance
40 with its religious tenets.

1 (h) The Chancellor of the California Community Colleges shall
2 provide to the department a standard process for approval of college
3 credit. The department shall make this information available to all
4 training programs in the state.

5 SEC. 29. Section 13113 of the Health and Safety Code is
6 amended to read:

7 13113. (a) Except as otherwise provided in this section, a
8 person, firm, or corporation shall not establish, maintain, or operate
9 a hospital, children's home, children's nursery, or institution, home
10 or institution for the care of aged or senile persons, sanitarium or
11 institution for insane persons or persons with intellectual
12 disabilities, or nursing or convalescent home, wherein more than
13 six guests or patients are housed or cared for on a 24-hour-per-day
14 basis unless there is installed and maintained in an operable
15 condition in every building, or portion thereof where patients or
16 guests are housed, an automatic sprinkler system approved by the
17 State Fire Marshal.

18 (b) This section does not apply to homes or institutions for the
19 24-hour-per-day care of ambulatory children if all of the following
20 conditions are satisfied:

21 (1) The buildings, or portions thereof where children are housed,
22 are not more than two stories in height and are constructed and
23 maintained in accordance with regulations adopted by the State
24 Fire Marshal pursuant to Section 13143 and building standards
25 published in the California Building Standards Code.

26 (2) The buildings, or portions thereof housing more than six
27 children, shall have installed and maintained in an operable
28 condition therein a fire alarm system of a type approved by the
29 State Fire Marshal. The system shall be activated by detectors
30 responding to invisible products of combustion other than heat.

31 (3) The buildings or portions thereof do not house mentally ill
32 children or children with intellectual disabilities.

33 (c) This section does not apply to any one-story building or
34 structure of an institution or home for the care of the aged providing
35 24-hour-per-day care if the building or structure is used or intended
36 to be used for the housing of no more than six ambulatory aged
37 persons. However, the buildings or institutions shall have installed
38 and maintained in an operable condition therein a fire alarm system
39 of a type approved by the State Fire Marshal. The system shall be

1 activated by detectors responding to products of combustion other
2 than heat.

3 (d) This section does not apply to occupancies, or any alterations
4 thereto, located in type I construction, as defined by the State Fire
5 Marshal, under construction or in existence on March 4, 1972.

6 (e) “Under construction,” as used in this section, means that
7 actual work shall have been performed on the construction site
8 and shall not be construed to mean that the hospital, home, nursery,
9 institution, sanitarium, or a portion thereof, is in the planning stage.

10 SEC. 30. Section 51312 of the Health and Safety Code is
11 amended to read:

12 51312. (a) The primary purpose of this chapter is to provide
13 an additional method of financing special needs housing.

14 (b) (1) For purposes of this chapter, “special needs housing”
15 means any housing, including supportive housing, intended to
16 benefit, in whole or in part, persons identified as having special
17 needs relating to any of the following:

18 (A) Mental health.

19 (B) Physical disabilities.

20 (C) Developmental disabilities, including, but not limited to,
21 intellectual disability, cerebral palsy, epilepsy, and autism.

22 (D) The risk of homelessness.

23 (2) Special needs housing shall also mean housing intended to
24 meet the housing needs of persons eligible for mental health
25 services funded in whole or in part by the Mental Health Services
26 Fund, created by Section 5890 of the Welfare and Institutions
27 Code.

28 SEC. 31. Section 110403 of the Health and Safety Code is
29 amended to read:

30 110403. Except as otherwise provided in Section 110405, it is
31 unlawful for a person to advertise a drug or device represented to
32 have an effect in any of the following conditions, disorders, or
33 diseases:

34 (a) Appendicitis.

35 (b) Blood disorders.

36 (c) Bone or joint diseases.

37 (d) Kidney diseases or disorders.

38 (e) Cancer.

39 (f) Carbuncles.

40 (g) Diseases, disorders, or conditions of the eye.

- 1 (h) Diabetes.
- 2 (i) Diphtheria.
- 3 (j) Gallbladder diseases or disorders.
- 4 (k) Heart and vascular diseases.
- 5 (l) High blood pressure.
- 6 (m) Diseases or disorders of the ear or auditory apparatus,
- 7 including hearing loss and deafness.
- 8 (n) Measles.
- 9 (o) Meningitis.
- 10 (p) Mental disease or intellectual disability.
- 11 (q) Paralysis.
- 12 (r) Pneumonia.
- 13 (s) Poliomyelitis.
- 14 (t) Prostate gland disorders.
- 15 (u) Conditions of the scalp, affecting hair loss, or baldness.
- 16 (v) Alcoholism.
- 17 (w) Periodontal diseases.
- 18 (x) Epilepsy.
- 19 (y) Goiter.
- 20 (z) Endocrine disorders.
- 21 (aa) Sexual impotence.
- 22 (ab) Sinus infections.
- 23 (ac) Encephalitis.
- 24 (ad) Tumors.
- 25 (ae) Venereal diseases.
- 26 (af) Tuberculosis.
- 27 (ag) Ulcers of the stomach.
- 28 (ah) Varicose ulcers.
- 29 (ai) Scarlet fever.
- 30 (aj) Typhoid fever.
- 31 (ak) Whooping cough.
- 32 (al) Acquired immunodeficiency syndrome (AIDS).
- 33 (am) AIDS-related complex (ARC).
- 34 (an) Diseases, disorders, or conditions of the immune system.

35 SEC. 32. Section 123935 of the Health and Safety Code is
36 amended to read:

37 123935. A handicapped child shall not be denied services
38 pursuant to this article because he or she has an intellectual
39 disability.

1 SEC. 33. Section 125000 of the Health and Safety Code is
2 amended to read:

3 125000. (a) It is the policy of the State of California to make
4 every effort to detect, as early as possible, phenylketonuria and
5 other preventable heritable or congenital disorders leading to
6 intellectual disability or physical defects.

7 The department shall establish a genetic disease unit, that shall
8 coordinate all programs of the department in the area of genetic
9 disease. The unit shall promote a statewide program of information,
10 testing, and counseling services and shall have the responsibility
11 of designating tests and regulations to be used in executing this
12 program.

13 The information, tests, and counseling for children shall be in
14 accordance with accepted medical practices and shall be
15 administered to each child born in California once the department
16 has established appropriate regulations and testing methods. The
17 information, tests, and counseling for pregnant women shall be in
18 accordance with accepted medical practices and shall be offered
19 to each pregnant woman in California once the department has
20 established appropriate regulations and testing methods. These
21 regulations shall follow the standards and principles specified in
22 Section 124980. The department may provide laboratory testing
23 facilities or contract with any laboratory that it deems qualified to
24 conduct tests required under this section. However, notwithstanding
25 former Section 125005, provision of laboratory testing facilities
26 by the department shall be contingent upon the provision of funding
27 therefor by specific appropriation to the Genetic Disease Testing
28 Fund enacted by the Legislature. If moneys appropriated for
29 purposes of this section are not authorized for expenditure to
30 provide laboratory facilities, the department may nevertheless
31 contract to provide laboratory testing services pursuant to this
32 section and shall perform laboratory services, including, but not
33 limited to, quality control, confirmatory, and emergency testing,
34 necessary to ensure the objectives of this program.

35 (b) The department shall charge a fee for any tests performed
36 pursuant to this section. The amount of the fee shall be established
37 and periodically adjusted by the director in order to meet the costs
38 of this section.

39 (c) The department shall inform all hospitals or physicians and
40 surgeons, or both, of required regulations and tests and may alter

1 or withdraw any of these requirements whenever sound medical
2 practice so indicates. To the extent practicable, the department
3 shall provide notice to hospitals and other payers in advance of an
4 increase in the fees charged for the program.

5 (d) This section shall not apply if a parent or guardian of the
6 newborn child objects to a test on the ground that the test conflicts
7 with his or her religious beliefs or practices.

8 (e) The genetic disease unit is authorized to make grants or
9 contracts or payments to vendors approved by the department for
10 all of the following:

11 (1) Testing and counseling services.

12 (2) Demonstration projects to determine the desirability and
13 feasibility of additional tests or new genetic services.

14 (3) To initiate the development of genetic services in areas of
15 need.

16 (4) To purchase or provide genetic services from any sums as
17 are appropriated for this purpose.

18 (f) The genetic disease unit shall evaluate and prepare
19 recommendations on the implementation of tests for the detection
20 of hereditary and congenital diseases, including, but not limited
21 to, biotinidase deficiency and cystic fibrosis. The genetic disease
22 unit shall also evaluate and prepare recommendations on the
23 availability and effectiveness of preventative followup
24 interventions, including the use of specialized medically necessary
25 dietary products.

26 It is the intent of the Legislature that funds for the support of the
27 evaluations and recommendations required pursuant to this
28 subdivision, and for the activities authorized pursuant to
29 subdivision (e), shall be provided in the annual Budget Act
30 appropriation from the Genetic Disease Testing Fund.

31 (g) Health care providers that contract with a prepaid group
32 practice health care service plan that annually has at least 20,000
33 births among its membership, may provide, without contracting
34 with the department, any or all of the testing and counseling
35 services required to be provided under this section or the
36 regulations adopted pursuant thereto, if the services meet the
37 quality standards and adhere to the regulations established by the
38 department and the plan pays that portion of a fee established under
39 this section that is directly attributable to the department's cost of
40 administering the testing or counseling service and to any required

1 testing or counseling services provided by the state for plan
2 members. The payment by the plan, as provided in this subdivision,
3 shall be deemed to fulfill any obligation the provider or the
4 provider's patient may have to the department to pay a fee in
5 connection with the testing or counseling service.

6 (h) The department may appoint experts in the area of genetic
7 screening, including, but not limited to, cytogenetics, molecular
8 biology, prenatal, specimen collection, and ultrasound to provide
9 expert advice and opinion on the interpretation and enforcement
10 of regulations adopted pursuant to this section. These experts shall
11 be designated agents of the state with respect to their assignments.
12 These experts shall receive no salary, but shall be reimbursed for
13 expenses associated with the purposes of this section. All expenses
14 of the experts for the purposes of this section shall be paid from
15 the Genetic Disease Testing Fund.

16 SEC. 34. Section 127260 of the Health and Safety Code is
17 amended to read:

18 127260. (a) The Advisory Health Council, upon review of a
19 decision of the department, shall do one of the following:

20 (1) Enter an order affirming the decision of the department if it
21 finds as to the respective basis of review that:

22 (A) The application was processed and the hearing conducted
23 was consistent with this chapter, or that any inconsistency with
24 respect thereto was immaterial to the decision of the department.

25 (B) There is substantial evidence in the record supporting the
26 department's decision.

27 (C) The department has not acted in an arbitrary and capricious
28 manner.

29 (2) Enter an order remanding the decision of the department if
30 it finds as to the respective basis of review that:

31 (A) The application was not processed or the hearing conducted
32 was not consistent with this chapter, and this inconsistency was
33 material to the decision rendered by the department.

34 (B) There is no substantial evidence in the record supporting
35 the decision.

36 (C) The department has acted in an arbitrary or capricious
37 manner.

38 (3) Enter an order reversing the decision of the department if it
39 finds as to the respective basis of review that:

1 (A) The application was not processed or the hearing conducted
2 was not consistent with the provisions of this chapter, and this
3 inconsistency was material to the decision rendered by the
4 department.

5 (B) There is no substantial evidence in the record supporting
6 the decision.

7 (C) The department has acted in an arbitrary or capricious
8 manner.

9 (b) Orders of the council authorized by this section shall be
10 made only upon the affirmative vote of a majority of the council,
11 with at least six of the affirmative votes cast by the following
12 members:

13 (1) Representative of consumers of services for persons with
14 intellectual disabilities appointed by the Governor.

15 (2) Representative of consumers of mental health services
16 appointed by the Governor.

17 (3) Representative of local government appointed by the
18 Governor.

19 (4) Representatives of the general consumer public appointed
20 by the Governor, Senate Committee on Rules, or Speaker of the
21 Assembly.

22 (5) Members of the Legislature appointed by the Senate
23 Committee on Rules or Speaker of the Assembly.

24 SEC. 35. Section 129395 of the Health and Safety Code is
25 amended to read:

26 129395. "Hospital" includes hospitals for the chronically ill
27 and impaired, public health centers, community mental health
28 centers, facilities for persons with intellectual disabilities, and
29 general, tuberculosis, mental and other types of hospitals and
30 related facilities, including laboratories, outpatient departments,
31 nurses' home and training facilities, and central service facilities
32 operated in connection with hospitals, diagnostic or treatment
33 centers, nursing homes, and rehabilitation facilities, but except for
34 facilities for persons with intellectual disabilities does not include
35 any institution furnishing primarily domiciliary care.

36 SEC. 36. Section 10118 of the Insurance Code is amended to
37 read:

38 10118. A policy of disability insurance delivered or issued for
39 delivery in this state more than 120 days after the effective date
40 of this section, that provides that coverage of a dependent child

1 shall terminate upon attainment of the limiting age for dependent
2 children specified in the policy or contract, shall also provide in
3 substance that attainment of the limiting age shall not operate to
4 terminate the coverage of the child while the child is and continues
5 to be both (a) incapable of self-sustaining employment by reason
6 of an intellectual disability or physical handicap and (b) chiefly
7 dependent upon the insured for support and maintenance, provided
8 proof of the incapacity and dependency is furnished to the insurer
9 by the insured within 31 days of the child's attainment of the
10 limiting age and subsequently as may be required by the insurer,
11 but not more frequently than annually after the two-year period
12 following the child's attainment of the limiting age.

13 Disability policies currently approved by the commissioner that
14 are delivered or issued for delivery more than 120 days after the
15 effective date of this section shall be automatically construed to
16 be in compliance with this section and need not be refiled or
17 reprinted. Disability policies submitted to the commissioner for
18 approval on and after the effective date of this section shall contain
19 provisions in compliance with this section.

20 SEC. 37. Section 10124 of the Insurance Code is amended to
21 read:

22 10124. (a) A self-insured employee welfare benefit plan
23 delivered or issued for delivery in this state more than 120 days
24 after the effective date of this section, that provides that coverage
25 of a dependent child of an employee shall terminate upon
26 attainment of the limiting age for dependent children specified in
27 the policy or contract, shall also provide in substance that
28 attainment of the limiting age shall not operate to terminate the
29 coverage of the child while the child is and continues to be both
30 (a) incapable of self-sustaining employment by reason of an
31 intellectual disability or physical handicap and (b) chiefly
32 dependent upon the employee for support and maintenance,
33 provided proof of the incapacity and dependency is furnished to
34 the employer or employee organization providing the plan or
35 program of benefits by the employee within 31 days of the child's
36 attainment of the limiting age and subsequently as may be required
37 by the employer or employee organization, but not more frequently
38 than annually after the two-year period following the child's
39 attainment of the limiting age.

(b) As used in this section, “self-insured employee welfare benefit plan” means a plan or program of benefits provided by an employer or an employee organization, or both, for the purpose of providing hospital, medical, surgical, nursing, or dental services, or indemnification for the costs incurred for these services, to the employer’s employees or their dependents.

SEC. 38. Section 10203.4 of the Insurance Code is amended to read:

10203.4. (a) Insurance under a group life insurance policy issued pursuant to Sections 10202, 10202.8, 10203, 10203.1, and 10203.7 may be extended to insure the dependents, or any class or classes thereof, of each insured employee who so elects, in amounts in accordance with some plan that precludes individual selection and that shall not be in excess of 100 percent of the insurance on the life of the insured employee.

(b) “Dependent” includes the member’s spouse and all children from birth until 26 years of age, or a child 26 years of age or older who is both incapable of self-sustaining employment by reason of an intellectual disability or physical handicap and chiefly dependent upon the employee for support and maintenance if proof of the incapacity and dependency is furnished to the insurer by the employee within 31 days of the child’s attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child’s attainment of the limiting age.

(c) The premiums for the insurance on the dependents may be paid by the employer, the employee, or the employer and the employee jointly.

SEC. 39. Section 1001.20 of the Penal Code is amended to read:

1001.20. As used in this chapter:

(a) “Cognitive Developmental Disability” means any of the following:

(1) “Intellectual disability” means a condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) “Autism” means a diagnosed condition of markedly abnormal or impaired development in social interaction, in

1 communication, or in both, with a markedly restricted repertoire
2 of activity and interests.

3 (3) Disabling conditions found to be closely related to
4 intellectual disability or autism, or that require treatment similar
5 to that required for individuals with intellectual disability or autism,
6 and that would qualify an individual for services provided under
7 the Lanterman Developmental Disabilities Services Act.

8 (b) “Diversion-related treatment and habilitation” means, but
9 is not limited to, specialized services or special adaptations of
10 generic services, directed toward the alleviation of cognitive
11 developmental disability or toward social, personal, physical, or
12 economic habilitation or rehabilitation of an individual with a
13 cognitive developmental disability, and includes, but is not limited
14 to, diagnosis, evaluation, treatment, personal care, day care,
15 domiciliary care, special living arrangements, physical,
16 occupational, and speech therapy, training, education, sheltered
17 employment, mental health services, recreation, counseling of the
18 individual with this disability and of his or her family, protective
19 and other social and sociolegal services, information and referral
20 services, follow-along services, and transportation services
21 necessary to assure delivery of services to persons with cognitive
22 developmental disabilities.

23 (c) “Regional center” means a regional center for the
24 developmentally disabled established under the Lanterman
25 Developmental Disabilities Services Act that is organized as a
26 private nonprofit community agency to plan, purchase, and
27 coordinate the delivery of services that cannot be provided by state
28 agencies to developmentally disabled persons residing in a
29 particular geographic catchment area, and that is licensed and
30 funded by the State Department of Developmental Services.

31 (d) “Director of a regional center” means the executive director
32 of a regional center for the developmentally disabled or his or her
33 designee.

34 (e) “Agency” means the prosecutor, the probation department,
35 and the regional center involved in a particular defendant’s case.

36 (f) “Dual agency diversion” means a treatment and habilitation
37 program developed with court approval by the regional center,
38 administered jointly by the regional center and by the probation
39 department, that is individually tailored to the needs of the
40 defendant as derived from the defendant’s individual program plan

1 pursuant to Section 4646 of the Welfare and Institutions Code,
2 and that includes, but is not limited to, treatment specifically
3 addressed to the criminal offense charged, for a specified period
4 of time as prescribed in Section 1001.28.

5 (g) “Single agency diversion” means a treatment and habilitation
6 program developed with court approval by the regional center,
7 administered solely by the regional center without involvement
8 by the probation department, that is individually tailored to the
9 needs of the defendant as derived from the defendant’s individual
10 program plan pursuant to Section 4646 of the Welfare and
11 Institutions Code, and that includes, but is not limited to, treatment
12 specifically addressed to the criminal offense charged, for a
13 specified period of time as prescribed in Section 1001.28.

14 SEC. 40. Section 1346 of the Penal Code is amended to read:

15 1346. (a) When a defendant has been charged with a violation
16 of Section 220, 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286,
17 288, 288a, 288.5, 289, or 647.6, and the victim either is a person
18 15 years of age or less or is developmentally disabled as a result
19 of an intellectual disability, as specified in subdivision (a) of
20 Section 4512 of the Welfare and Institutions Code, the people may
21 apply for an order that the victim’s testimony at the preliminary
22 hearing, in addition to being stenographically recorded, be recorded
23 and preserved on videotape.

24 (b) The application for the order shall be in writing and made
25 three days prior to the preliminary hearing.

26 (c) Upon timely receipt of the application, the magistrate shall
27 order that the testimony of the victim given at the preliminary
28 hearing be taken and preserved on videotape. The videotape shall
29 be transmitted to the clerk of the court in which the action is
30 pending.

31 (d) If at the time of trial the court finds that further testimony
32 would cause the victim emotional trauma so that the victim is
33 medically unavailable or otherwise unavailable within the meaning
34 of Section 240 of the Evidence Code, the court may admit the
35 videotape of the victim’s testimony at the preliminary hearing as
36 former testimony under Section 1291 of the Evidence Code.

37 (e) A videotape that is taken pursuant to this section is subject
38 to a protective order of the court for the purpose of protecting the
39 privacy of the victim. This subdivision does not affect the
40 provisions of subdivision (b) of Section 868.7.

1 (f) A videotape made pursuant to this section shall be made
2 available to the prosecuting attorney, the defendant, and his or her
3 attorney for viewing during ordinary business hours. A videotape
4 that is made available pursuant to this section is subject to a
5 protective order of the court for the purpose of protecting the
6 privacy of the victim.

7 (g) The tape shall be destroyed after five years have elapsed
8 from the date of entry of judgment, except that if an appeal is filed,
9 the tape shall not be destroyed until a final judgment on appeal
10 has been rendered.

11 SEC. 41. Section 1370.1 of the Penal Code is amended to read:

12 1370.1. (a) (1) (A) If the defendant is found mentally
13 competent, the criminal process shall resume, the trial on the
14 offense charged shall proceed, and judgment may be pronounced.

15 (B) If the defendant is found mentally incompetent and is
16 developmentally disabled, the trial or judgment shall be suspended
17 until the defendant becomes mentally competent.

18 (i) Except as provided in clause (ii) or (iii), the court shall
19 consider a recommendation for placement, which recommendation
20 shall be made to the court by the director of a regional center or
21 designee. In the meantime, the court shall order that the mentally
22 incompetent defendant be delivered by the sheriff or other person
23 designated by the court to a state hospital or developmental center
24 for the care and treatment of the developmentally disabled or any
25 other available residential facility approved by the director of a
26 regional center for the developmentally disabled established under
27 Division 4.5 (commencing with Section 4500) of the Welfare and
28 Institutions Code as will promote the defendant's speedy attainment
29 of mental competence, or be placed on outpatient status pursuant
30 to the provisions of Section 1370.4 and Title 15 (commencing with
31 Section 1600) of Part 2.

32 (ii) However, if the action against the defendant who has been
33 found mentally incompetent is on a complaint charging a felony
34 offense specified in Section 290, the prosecutor shall determine
35 whether the defendant previously has been found mentally
36 incompetent to stand trial pursuant to this chapter on a charge of
37 a Section 290 offense, or whether the defendant is currently the
38 subject of a pending Section 1368 proceeding arising out of a
39 charge of a Section 290 offense. If either determination is made,
40 the prosecutor shall so notify the court and defendant in writing.

1 After this notification, and opportunity for hearing, the court shall
2 order that the defendant be delivered by the sheriff to a state
3 hospital or other secure treatment facility for the care and treatment
4 of the developmentally disabled unless the court makes specific
5 findings on the record that an alternative placement would provide
6 more appropriate treatment for the defendant and would not pose
7 a danger to the health and safety of others.

8 (iii) If the action against the defendant who has been found
9 mentally incompetent is on a complaint charging a felony offense
10 specified in Section 290 and the defendant has been denied bail
11 pursuant to subdivision (b) of Section 12 of Article I of the
12 California Constitution because the court has found, based upon
13 clear and convincing evidence, a substantial likelihood that the
14 person's release would result in great bodily harm to others, the
15 court shall order that the defendant be delivered by the sheriff to
16 a state hospital for the care and treatment of the developmentally
17 disabled unless the court makes specific findings on the record
18 that an alternative placement would provide more appropriate
19 treatment for the defendant and would not pose a danger to the
20 health and safety of others.

21 (iv) The clerk of the court shall notify the Department of Justice
22 in writing of any finding of mental incompetence with respect to
23 a defendant who is subject to clause (ii) or (iii) for inclusion in his
24 or her state summary criminal history information.

25 (C) Upon becoming competent, the court shall order that the
26 defendant be returned to the committing court pursuant to the
27 procedures set forth in paragraph (2) of subdivision (a) of Section
28 1372 or by another person designated by the court. The court shall
29 further determine conditions under which the person may be absent
30 from the placement for medical treatment, social visits, and other
31 similar activities. Required levels of supervision and security for
32 these activities shall be specified.

33 (D) The court shall transmit a copy of its order to the regional
34 center director or designee and to the Director of Developmental
35 Services.

36 (E) A defendant charged with a violent felony may not be placed
37 in a facility or delivered to a state hospital, developmental center,
38 or residential facility pursuant to this subdivision unless the facility,
39 state hospital, developmental center, or residential facility has a

1 secured perimeter or a locked and controlled treatment facility,
2 and the judge determines that the public safety will be protected.

3 (F) For purposes of this paragraph, “violent felony” means an
4 offense specified in subdivision (c) of Section 667.5.

5 (G) A defendant charged with a violent felony may be placed
6 on outpatient status, as specified in Section 1370.4 or 1600, only
7 if the court finds that the placement will not pose a danger to the
8 health or safety of others.

9 (H) As used in this section, “developmental disability” means
10 a disability that originates before an individual attains 18 years of
11 age, continues, or can be expected to continue, indefinitely and
12 constitutes a substantial handicap for the individual, and shall not
13 include other handicapping conditions that are solely physical in
14 nature. As defined by the Director of Developmental Services, in
15 consultation with the Superintendent of Public Instruction, this
16 term shall include intellectual disability, cerebral palsy, epilepsy,
17 and autism. This term shall also include handicapping conditions
18 found to be closely related to intellectual disability or to require
19 treatment similar to that required for individuals with an intellectual
20 disability, but shall not include other handicapping conditions that
21 are solely physical in nature.

22 (2) Prior to making the order directing that the defendant be
23 confined in a state hospital, developmental center, or other
24 residential facility, or be placed on outpatient status, the court shall
25 order the regional center director or designee to evaluate the
26 defendant and to submit to the court within 15 judicial days of the
27 order a written recommendation as to whether the defendant should
28 be committed to a state hospital or developmental center or to any
29 other available residential facility approved by the regional center
30 director. A person shall not be admitted to a state hospital,
31 developmental center, or other residential facility or accepted for
32 outpatient status under Section 1370.4 without having been
33 evaluated by the regional center director or designee.

34 (3) When the court orders that the defendant be confined in a
35 state hospital or other secure treatment facility pursuant to clause
36 (ii) or (iii) of subparagraph (B) of paragraph (1), the court shall
37 provide copies of the following documents which shall be taken
38 with the defendant to the state hospital or other secure treatment
39 facility where the defendant is to be confined:

40 (A) State summary criminal history information.

1 (B) Any arrest reports prepared by the police department or
2 other law enforcement agency.

3 (C) Records of a finding of mental incompetence pursuant to
4 this chapter arising out of a complaint charging a felony offense
5 specified in Section 290 or a pending Section 1368 proceeding
6 arising out of a charge of a Section 290 offense.

7 (4) When the defendant is committed to a residential facility
8 pursuant to clause (i) of subparagraph (B) of paragraph (1) or the
9 court makes the findings specified in clause (ii) or (iii) of
10 subparagraph (B) of paragraph (1) to assign the defendant to a
11 facility other than a state hospital or other secure treatment facility,
12 the court shall order that notice be given to the appropriate law
13 enforcement agency or agencies having local jurisdiction at the
14 site of the placement facility of a finding of mental incompetence
15 pursuant to this chapter arising out of a charge of a Section 290
16 offense.

17 (5) (A) If the defendant is committed or transferred to a state
18 hospital or developmental center pursuant to this section, the court
19 may, upon receiving the written recommendation of the executive
20 director of the state hospital or developmental center and the
21 regional center director that the defendant be transferred to a
22 residential facility approved by the regional center director, order
23 the defendant transferred to that facility. If the defendant is
24 committed or transferred to a residential facility approved by the
25 regional center director, the court may, upon receiving the written
26 recommendation of the regional center director, transfer the
27 defendant to a state hospital or developmental center or to another
28 residential facility approved by the regional center director.

29 In the event of dismissal of the criminal charges before the
30 defendant recovers competence, the person shall be subject to the
31 applicable provisions of the Lanterman-Petris-Short Act (Part 1
32 (commencing with Section 5000) of Division 5 of the Welfare and
33 Institutions Code) or to commitment or detention pursuant to a
34 petition filed pursuant to Section 6502 of the Welfare and
35 Institutions Code.

36 The defendant or prosecuting attorney may contest either kind
37 of order of transfer by filing a petition with the court for a hearing,
38 which shall be held if the court determines that sufficient grounds
39 exist. At the hearing, the prosecuting attorney or the defendant
40 may present evidence bearing on the order of transfer. The court

1 shall use the same standards as used in conducting probation
2 revocation hearings pursuant to Section 1203.2.

3 Prior to making an order for transfer under this section, the court
4 shall notify the defendant, the attorney of record for the defendant,
5 the prosecuting attorney, and the regional center director or
6 designee.

7 (B) If the defendant is committed to a state hospital or secure
8 treatment facility pursuant to clause (ii) or (iii) of subparagraph
9 (B) of paragraph (1) and is subsequently transferred to another
10 facility, copies of the documents specified in paragraph (3) shall
11 be taken with the defendant to the new facility. The transferring
12 facility shall also notify the appropriate law enforcement agency
13 or agencies having local jurisdiction at the site of the new facility
14 that the defendant is a person subject to clause (ii) or (iii) of
15 subparagraph (B) of paragraph (1).

16 (b) (1) Within 90 days of admission of a person committed
17 pursuant to subdivision (a), the executive director or designee of
18 the state hospital, developmental center, or other facility to which
19 the defendant is committed, or the outpatient supervisor where the
20 defendant is placed on outpatient status, shall make a written report
21 to the committing court and the regional center director or a
22 designee concerning the defendant's progress toward becoming
23 mentally competent. If the defendant has not become mentally
24 competent, but the report discloses a substantial likelihood the
25 defendant will become mentally competent within the next 90
26 days, the court may order that the defendant shall remain in the
27 state hospital, developmental center, or other facility or on
28 outpatient status for that period of time. Within 150 days of an
29 admission made pursuant to subdivision (a) or if the defendant
30 becomes mentally competent, the executive director or designee
31 of the hospital or developmental center or person in charge of the
32 facility or the outpatient supervisor shall report to the court and
33 the regional center director or his or her designee regarding the
34 defendant's progress toward becoming mentally competent. The
35 court shall provide to the prosecutor and defense counsel copies
36 of all reports under this section. If the report indicates that there
37 is no substantial likelihood that the defendant has become mentally
38 competent, the committing court shall order the defendant to be
39 returned to the court for proceedings pursuant to paragraph (2) of
40 subdivision (c). The court shall transmit a copy of its order to the

1 regional center director or designee and to the executive director
2 of the developmental center.

3 (2) A defendant who has been committed or has been on
4 outpatient status for 18 months, and is still hospitalized or on
5 outpatient status shall be returned to the committing court where
6 a hearing shall be held pursuant to the procedures set forth in
7 Section 1369. The court shall transmit a copy of its order to the
8 regional center director or designee and the executive director of
9 the developmental center.

10 (3) If it is determined by the court that no treatment for the
11 defendant's mental impairment is being conducted, the defendant
12 shall be returned to the committing court. A copy of this order
13 shall be sent to the regional center director or designee and to the
14 executive director of the developmental center.

15 (4) At each review by the court specified in this subdivision,
16 the court shall determine if the security level of housing and
17 treatment is appropriate and may make an order in accordance
18 with its determination.

19 (c) (1) (A) At the end of three years from the date of
20 commitment or a period of commitment equal to the maximum
21 term of imprisonment provided by law for the most serious offense
22 charged in the information, indictment, or misdemeanor complaint,
23 whichever is shorter, a defendant who has not become mentally
24 competent shall be returned to the committing court.

25 (B) The court shall notify the regional center director or designee
26 and the executive director of the developmental center of that
27 return and of any resulting court orders.

28 (2) In the event of dismissal of the criminal charges before the
29 defendant becomes mentally competent, the defendant shall be
30 subject to the applicable provisions of the Lanterman-Petris-Short
31 Act (Part 1 (commencing with Section 5000) of Division 5 of the
32 Welfare and Institutions Code), or to commitment and detention
33 pursuant to a petition filed pursuant to Section 6502 of the Welfare
34 and Institutions Code. If it is found that the person is not subject
35 to commitment or detention pursuant to the applicable provision
36 of the Lanterman-Petris-Short Act (Part 1 (commencing with
37 Section 5000) of Division 5 of the Welfare and Institutions Code)
38 or to commitment or detention pursuant to a petition filed pursuant
39 to Section 6502 of the Welfare and Institutions Code, the individual
40 shall not be subject to further confinement pursuant to this article

1 and the criminal action remains subject to dismissal pursuant to
2 Section 1385. The court shall notify the regional center director
3 and the executive director of the developmental center of any
4 dismissal.

5 (d) Notwithstanding any other provision of this section, the
6 criminal action remains subject to dismissal pursuant to Section
7 1385. If at any time prior to the maximum period of time allowed
8 for proceedings under this article, the regional center director
9 concludes that the behavior of the defendant related to the
10 defendant's criminal offense has been eliminated during time spent
11 in court-ordered programs, the court may, upon recommendation
12 of the regional center director, dismiss the criminal charges. The
13 court shall transmit a copy of any order of dismissal to the regional
14 center director and to the executive director of the developmental
15 center.

16 (e) For the purpose of this section, "secure treatment facility"
17 shall not include, except for state mental hospitals, state
18 developmental centers, and correctional treatment facilities, a
19 facility licensed pursuant to Chapter 2 (commencing with Section
20 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter
21 3.2 (commencing with Section 1569) of, Division 2 of the Health
22 and Safety Code, or a community board and care facility.

23 SEC. 42. Section 1376 of the Penal Code is amended to read:

24 1376. (a) As used in this section, "intellectual disability" means
25 the condition of significantly subaverage general intellectual
26 functioning existing concurrently with deficits in adaptive behavior
27 and manifested before 18 years of age.

28 (b) (1) In any case in which the prosecution seeks the death
29 penalty, the defendant may, at a reasonable time prior to the
30 commencement of trial, apply for an order directing that a hearing
31 to determine intellectual disability be conducted. Upon the
32 submission of a declaration by a qualified expert stating his or her
33 opinion that the defendant is a person with an intellectual disability,
34 the court shall order a hearing to determine whether the defendant
35 is a person with an intellectual disability. At the request of the
36 defendant, the court shall conduct the hearing without a jury prior
37 to the commencement of the trial. The defendant's request for a
38 court hearing prior to trial shall constitute a waiver of a jury hearing
39 on the issue of intellectual disability. If the defendant does not
40 request a court hearing, the court shall order a jury hearing to

1 determine if the defendant is a person with an intellectual disability.
2 The jury hearing on intellectual disability shall occur at the
3 conclusion of the phase of the trial in which the jury has found the
4 defendant guilty with a finding that one or more of the special
5 circumstances enumerated in Section 190.2 are true. Except as
6 provided in paragraph (3), the same jury shall make a finding that
7 the defendant is a person with an intellectual disability or that the
8 defendant does not have an intellectual disability.

9 (2) For the purposes of the procedures set forth in this section,
10 the court or jury shall decide only the question of the defendant's
11 intellectual disability. The defendant shall present evidence in
12 support of the claim that he or she is a person with an intellectual
13 disability. The prosecution shall present its case regarding the issue
14 of whether the defendant is a person with an intellectual disability.
15 Each party may offer rebuttal evidence. The court, for good cause
16 in furtherance of justice, may permit either party to reopen its case
17 to present evidence in support of or opposition to the claim of
18 intellectual disability. Nothing in this section shall prohibit the
19 court from making orders reasonably necessary to ensure the
20 production of evidence sufficient to determine whether or not the
21 defendant is a person with an intellectual disability, including, but
22 not limited to, the appointment of, and examination of the
23 defendant by, qualified experts. A statement made by the defendant
24 during an examination ordered by the court shall not be admissible
25 in the trial on the defendant's guilt.

26 (3) At the close of evidence, the prosecution shall make its final
27 argument, and the defendant shall conclude with his or her final
28 argument. The burden of proof shall be on the defense to prove
29 by a preponderance of the evidence that the defendant is a person
30 with an intellectual disability. The jury shall return a verdict that
31 either the defendant is a person with an intellectual disability or
32 the defendant does not have an intellectual disability. The verdict
33 of the jury shall be unanimous. In any case in which the jury has
34 been unable to reach a unanimous verdict that the defendant is a
35 person with an intellectual disability, and does not reach a
36 unanimous verdict that the defendant does not have an intellectual
37 disability, the court shall dismiss the jury and order a new jury
38 impaneled to try the issue of intellectual disability. The issue of
39 guilt shall not be tried by the new jury.

(c) In the event the hearing is conducted before the court prior to the commencement of the trial, the following shall apply:

(1) If the court finds that the defendant is a person with an intellectual disability, the court shall preclude the death penalty and the criminal trial thereafter shall proceed as in any other case in which a sentence of death is not sought by the prosecution. If the defendant is found guilty of murder in the first degree, with a finding that one or more of the special circumstances enumerated in Section 190.2 are true, the court shall sentence the defendant to confinement in the state prison for life without the possibility of parole. The jury shall not be informed of the prior proceedings or the findings concerning the defendant's claim of intellectual disability.

(2) If the court finds that the defendant does not have an intellectual disability, the trial court shall proceed as in any other case in which a sentence of death is sought by the prosecution. The jury shall not be informed of the prior proceedings or the findings concerning the defendant's claim of intellectual disability.

(d) In the event the hearing is conducted before the jury after the defendant is found guilty with a finding that one or more of the special circumstances enumerated in Section 190.2 are true, the following shall apply:

(1) If the jury finds that the defendant is a person with an intellectual disability, the court shall preclude the death penalty and shall sentence the defendant to confinement in the state prison for life without the possibility of parole.

(2) If the jury finds that the defendant does not have an intellectual disability, the trial shall proceed as in any other case in which a sentence of death is sought by the prosecution.

(e) In any case in which the defendant has not requested a court hearing as provided in subdivision (b), and has entered a plea of not guilty by reason of insanity under Sections 190.4 and 1026, the hearing on intellectual disability shall occur at the conclusion of the sanity trial if the defendant is found sane.

SEC. 43. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of State Hospitals, and the State Department of State Hospitals shall provide the necessary treatment:

1 (a) (1) The prisoner has a severe mental disorder that is not in
2 remission or cannot be kept in remission without treatment.

3 (2) The term “severe mental disorder” means an illness or
4 disease or condition that substantially impairs the person’s thought,
5 perception of reality, emotional process, or judgment; or which
6 grossly impairs behavior; or that demonstrates evidence of an acute
7 brain syndrome for which prompt remission, in the absence of
8 treatment, is unlikely. The term “severe mental disorder” as used
9 in this section does not include a personality or adjustment disorder,
10 epilepsy, intellectual disability or other developmental disability,
11 or addiction to or abuse of intoxicating substances.

12 (3) The term “remission” means a finding that the overt signs
13 and symptoms of the severe mental disorder are controlled either
14 by psychotropic medication or psychosocial support. A person
15 “cannot be kept in remission without treatment” if during the year
16 prior to the question being before the Board of Parole Hearings or
17 a trial court, he or she has been in remission and he or she has been
18 physically violent, except in self-defense, or he or she has made
19 a serious threat of substantial physical harm upon the person of
20 another so as to cause the target of the threat to reasonably fear
21 for his or her safety or the safety of his or her immediate family,
22 or he or she has intentionally caused property damage, or he or
23 she has not voluntarily followed the treatment plan. In determining
24 if a person has voluntarily followed the treatment plan, the standard
25 shall be whether the person has acted as a reasonable person would
26 in following the treatment plan.

27 (b) The severe mental disorder was one of the causes of or was
28 an aggravating factor in the commission of a crime for which the
29 prisoner was sentenced to prison.

30 (c) The prisoner has been in treatment for the severe mental
31 disorder for 90 days or more within the year prior to the prisoner’s
32 parole or release.

33 (d) (1) Prior to release on parole, the person in charge of treating
34 the prisoner and a practicing psychiatrist or psychologist from the
35 State Department of State Hospitals have evaluated the prisoner
36 at a facility of the Department of Corrections and Rehabilitation,
37 and a chief psychiatrist of the Department of Corrections and
38 Rehabilitation has certified to the Board of Parole Hearings that
39 the prisoner has a severe mental disorder, that the disorder is not
40 in remission, or cannot be kept in remission without treatment,

1 that the severe mental disorder was one of the causes or was an
2 aggravating factor in the prisoner's criminal behavior, that the
3 prisoner has been in treatment for the severe mental disorder for
4 90 days or more within the year prior to his or her parole release
5 day, and that by reason of his or her severe mental disorder the
6 prisoner represents a substantial danger of physical harm to others.
7 For prisoners being treated by the State Department of State
8 Hospitals pursuant to Section 2684, the certification shall be by a
9 chief psychiatrist of the Department of Corrections and
10 Rehabilitation, and the evaluation shall be done at a state hospital
11 by the person at the state hospital in charge of treating the prisoner
12 and a practicing psychiatrist or psychologist from the Department
13 of Corrections and Rehabilitation.

14 (2) If the professionals doing the evaluation pursuant to
15 paragraph (1) do not concur that (A) the prisoner has a severe
16 mental disorder, (B) that the disorder is not in remission or cannot
17 be kept in remission without treatment, or (C) that the severe
18 mental disorder was a cause of, or aggravated, the prisoner's
19 criminal behavior, and a chief psychiatrist has certified the prisoner
20 to the Board of Parole Hearings pursuant to this paragraph, then
21 the Board of Parole Hearings shall order a further examination by
22 two independent professionals, as provided for in Section 2978.

23 (3) If at least one of the independent professionals who evaluate
24 the prisoner pursuant to paragraph (2) concurs with the chief
25 psychiatrist's certification of the issues described in paragraph (2),
26 this subdivision shall be applicable to the prisoner. The
27 professionals appointed pursuant to Section 2978 shall inform the
28 prisoner that the purpose of their examination is not treatment but
29 to determine if the prisoner meets certain criteria to be involuntarily
30 treated as a mentally disordered offender. It is not required that
31 the prisoner appreciate or understand that information.

32 (e) The crime referred to in subdivision (b) meets both of the
33 following criteria:

34 (1) The defendant received a determinate sentence pursuant to
35 Section 1170 for the crime.

36 (2) The crime is one of the following:

37 (A) Voluntary manslaughter.

38 (B) Mayhem.

39 (C) Kidnapping in violation of Section 207.

1 (D) Any robbery wherein it was charged and proved that the
2 defendant personally used a deadly or dangerous weapon, as
3 provided in subdivision (b) of Section 12022, in the commission
4 of that robbery.

5 (E) Carjacking, as defined in subdivision (a) of Section 215, if
6 it is charged and proved that the defendant personally used a deadly
7 or dangerous weapon, as provided in subdivision (b) of Section
8 12022, in the commission of the carjacking.

9 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
10 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
11 262.

12 (G) Sodomy by force, violence, duress, menace, or fear of
13 immediate and unlawful bodily injury on the victim or another
14 person.

15 (H) Oral copulation by force, violence, duress, menace, or fear
16 of immediate and unlawful bodily injury on the victim or another
17 person.

18 (I) Lewd acts on a child under 14 years of age in violation of
19 Section 288.

20 (J) Continuous sexual abuse in violation of Section 288.5.

21 (K) The offense described in subdivision (a) of Section 289
22 where the act was accomplished against the victim's will by force,
23 violence, duress, menace, or fear of immediate and unlawful bodily
24 injury on the victim or another person.

25 (L) Arson in violation of subdivision (a) of Section 451, or arson
26 in violation of any other provision of Section 451 or in violation
27 of Section 455 where the act posed a substantial danger of physical
28 harm to others.

29 (M) Any felony in which the defendant used a firearm which
30 use was charged and proved as provided in Section 12022.5,
31 12022.53, or 12022.55.

32 (N) A violation of Section 18745.

33 (O) Attempted murder.

34 (P) A crime not enumerated in subparagraphs (A) to (O),
35 inclusive, in which the prisoner used force or violence, or caused
36 serious bodily injury as defined in paragraph (4) of subdivision (f)
37 of Section 243.

38 (Q) A crime in which the perpetrator expressly or impliedly
39 threatened another with the use of force or violence likely to
40 produce substantial physical harm in a manner that a reasonable

1 person would believe and expect that the force or violence would
2 be used. For purposes of this subparagraph, substantial physical
3 harm shall not require proof that the threatened act was likely to
4 cause great or serious bodily injury.

5 (f) As used in this chapter, “substantial danger of physical harm”
6 does not require proof of a recent overt act.

7 SEC. 44. Section 1420 of the Probate Code is amended to read:

8 1420. “Developmental disability” means a disability that
9 originates before an individual attains 18 years of age, continues,
10 or can be expected to continue, indefinitely, and constitutes a
11 substantial handicap for the individual. As defined by the Director
12 of Developmental Services, in consultation with the Superintendent
13 of Public Instruction, this term includes intellectual disability,
14 cerebral palsy, epilepsy, and autism. This term also includes
15 handicapping conditions found to be closely related to intellectual
16 disability or to require treatment similar to that required for
17 individuals with an intellectual disability, but does not include
18 other handicapping conditions that are solely physical in nature.

19 SEC. 45. Section 25276 of the Vehicle Code is amended to
20 read:

21 25276. (a) A motor vehicle designed for carrying more than
22 eight persons, including the driver, owned by a private, nonprofit
23 organization that provides training or other activities for persons
24 who have intellectual or physical disabilities, or both, and that is
25 certified by the Department of Rehabilitation or licensed by the
26 State Department of Developmental Services, with respect to the
27 providing of this training or other activities, may be equipped with
28 a flashing amber light signal system.

29 (b) A motor vehicle, described in subdivision (a), may, while
30 actually engaged in the transportation of persons described in
31 subdivision (a) to or from a training or activity center operated by
32 the organization, display the flashing amber lights of the system
33 when necessarily parked upon a highway and in the process of
34 loading or unloading persons.

35 (c) Subdivisions (a) and (b) apply to a motor vehicle that is
36 rented, leased, or chartered by the organization.

37 SEC. 46. Section 4417 of the Welfare and Institutions Code is
38 amended to read:

39 4417. The State Department of Developmental Services may:

1 (a) Disseminate educational information relating to the
2 prevention, diagnosis and treatment of intellectual disability.

3 (b) Upon request, advise all public officers, organizations and
4 agencies interested in the developmental disabilities of the people
5 of the state.

6 (c) Conduct educational and related work that will tend to
7 encourage the development of proper developmental disabilities
8 facilities throughout the state.

9 The department may organize, establish and maintain community
10 mental hygiene clinics for the prevention, early diagnosis, and
11 treatment of intellectual disability. These clinics may be maintained
12 only for persons not requiring institutional care, who voluntarily
13 seek the aid of the clinics. These clinics may be maintained at the
14 locations in the communities of the state designated by the director,
15 or at any institution under the jurisdiction of the department
16 designated by the director.

17 The department may establish rules and regulations that are
18 necessary to carry out this section. This section does not authorize
19 any form of compulsory medical or physical examination,
20 treatment, or control of any person.

21 SEC. 47. Section 4426 of the Welfare and Institutions Code is
22 amended to read:

23 4426. The department may inquire into the manner in which
24 a person with an intellectual disability who is subject to
25 commitment, not confined in a state hospital, is cared for and
26 maintained. If, in its judgment, the person is not properly and
27 suitably cared for, the department may apply to a judge of the
28 superior court for an order to commit him or her to a state hospital
29 under the provisions of this code. This order shall not be made
30 unless the judge finds, and certifies in the order, that the person is
31 not properly or suitably cared for by his or her relatives, legal
32 guardian, or conservator, or that it is dangerous to the public to
33 allow him or her to be cared for and maintained by the relatives,
34 legal guardian, or conservator.

35 SEC. 48. Section 4512 of the Welfare and Institutions Code is
36 amended to read:

37 4512. As used in this division:

38 (a) "Developmental disability" means a disability that originates
39 before an individual attains 18 years of age, continues, or can be
40 expected to continue, indefinitely, and constitutes a substantial

1 disability for that individual. As defined by the Director of
2 Developmental Services, in consultation with the Superintendent
3 of Public Instruction, this term shall include intellectual disability,
4 cerebral palsy, epilepsy, and autism. This term shall also include
5 disabling conditions found to be closely related to intellectual
6 disability or to require treatment similar to that required for
7 individuals with intellectual disability, but shall not include other
8 handicapping conditions that are solely physical in nature.

9 (b) (1) “Services and supports for persons with developmental
10 disabilities” means specialized services and supports or special
11 adaptations of generic services and supports directed toward the
12 alleviation of a developmental disability or toward the social,
13 personal, physical, or economic habilitation or rehabilitation of an
14 individual with a developmental disability, or toward the
15 achievement and maintenance of independent, productive, normal
16 lives. The determination of services and supports that are necessary
17 for each consumer shall be made through the individual program
18 plan process. The determination shall be made on the basis of the
19 needs and preferences of the consumer or, when appropriate, the
20 consumer’s family, and shall include consideration of a range of
21 service options proposed by individual program plan participants,
22 the effectiveness of each option in meeting the goals stated in the
23 individual program plan, and the cost-effectiveness of each option.

24 (2) Services and supports listed in the individual program plan
25 may include, but are not limited to, any of the following: diagnosis,
26 evaluation, treatment, personal care, day care, domiciliary care,
27 special living arrangements, physical, occupational, and speech
28 therapy, training, education, supported and sheltered employment,
29 mental health services, recreation, counseling of the individual
30 with a developmental disability and of his or her family, protective
31 and other social and sociolegal services, information and referral
32 services, follow-along services, adaptive equipment and supplies,
33 advocacy assistance, including self-advocacy training, facilitation
34 and peer advocates, assessment, assistance in locating a home,
35 child care, behavior training and behavior modification programs,
36 camping, community integration services, community support,
37 daily living skills training, emergency and crisis intervention,
38 facilitating circles of support, habilitation, homemaker services,
39 infant stimulation programs, paid roommates, paid neighbors,
40 respite, short-term out-of-home care, social skills training,

1 specialized medical and dental care, supported living arrangements,
2 technical and financial assistance, travel training, training for
3 parents of children with developmental disabilities, training for
4 parents with developmental disabilities, vouchers, and
5 transportation services necessary to ensure delivery of services to
6 persons with developmental disabilities.

7 (3) Nothing in this subdivision is intended to expand or authorize
8 a new or different service or support for any consumer unless that
9 service or support is contained in his or her individual program
10 plan.

11 (c) Notwithstanding subdivisions (a) and (b), for any
12 organization or agency receiving federal financial participation
13 under the federal Developmental Disabilities Assistance and Bill
14 of Rights Act, as amended “developmental disability” and “services
15 for persons with developmental disabilities” means the terms as
16 defined in the federal act to the extent required by federal law.

17 (d) “Consumer” means a person who has a disability that meets
18 the definition of developmental disability set forth in subdivision
19 (a).

20 (e) “Natural supports” means personal associations and
21 relationships typically developed in the community that enhance
22 the quality and security of life for people, including, but not limited
23 to, family relationships, friendships reflecting the diversity of the
24 neighborhood and the community, associations with fellow students
25 or employees in regular classrooms and workplaces, and
26 associations developed through participation in clubs,
27 organizations, and other civic activities.

28 (f) “Circle of support” means a committed group of community
29 members, who may include family members, meeting regularly
30 with an individual with developmental disabilities in order to share
31 experiences, promote autonomy and community involvement, and
32 assist the individual in establishing and maintaining natural
33 supports. A circle of support generally includes a plurality of
34 members who neither provide nor receive services or supports for
35 persons with developmental disabilities and who do not receive
36 payment for participation in the circle of support.

37 (g) “Facilitation” means the use of modified or adapted
38 materials, special instructions, equipment, or personal assistance
39 by an individual, including assistance with communications, that
40 will enable a consumer to understand and participate to the

1 maximum extent possible in the decisions and choices that affect
2 his or her life.

3 (h) “Family support services” means services and supports that
4 are provided to a child with developmental disabilities or his or
5 her family and that contribute to the ability of the family to reside
6 together.

7 (i) “Voucher” means an authorized alternative form of service
8 delivery in which the consumer or family member is provided with
9 a payment, coupon, chit, or other form of authorization that enables
10 the consumer or family member to choose his or her own service
11 provider.

12 (j) “Planning team” means the individual with developmental
13 disabilities, the parents or legally appointed guardian of a minor
14 consumer or the legally appointed conservator of an adult
15 consumer, the authorized representative, including those appointed
16 pursuant to subdivision (d) of Section 4548 and subdivision (e) of
17 Section 4705, one or more regional center representatives,
18 including the designated regional center service coordinator
19 pursuant to subdivision (b) of Section 4640.7, an individual,
20 including a service provider, invited by the consumer, the parents
21 or legally appointed guardian of a minor consumer or the legally
22 appointed conservator of an adult consumer, or the authorized
23 representative, including those appointed pursuant to subdivision
24 (d) of Section 4548 and subdivision (e) of Section 4705, and
25 including a minor’s, dependent’s, or ward’s court-appointed
26 developmental services decisionmaker appointed pursuant to
27 Section 319, 361, or 726.

28 (k) “Stakeholder organizations” means statewide organizations
29 representing the interests of consumers, family members, service
30 providers, and statewide advocacy organizations.

31 (l) “Substantial disability” means the existence of significant
32 functional limitations in three or more of the following areas of
33 major life activity, as determined by a regional center, and as
34 appropriate to the age of the person:

- 35 (1) Self-care.
- 36 (2) Receptive and expressive language.
- 37 (3) Learning.
- 38 (4) Mobility.
- 39 (5) Self-direction.
- 40 (6) Capacity for independent living.

1 (7) Economic self-sufficiency.

2 A reassessment of substantial disability for purposes of
3 continuing eligibility shall utilize the same criteria under which
4 the individual was originally made eligible.

5 SEC. 49. Section 4801 of the Welfare and Institutions Code is
6 amended to read:

7 4801. (a) Judicial review shall be in the superior court for the
8 county in which the state hospital, developmental center,
9 community care facility, or health facility is located, except that,
10 if the adult has been found incompetent to stand trial and has been
11 committed pursuant to Chapter 6 (commencing with Section 1367)
12 of Title 10 of Part 2 of the Penal Code, judicial review shall be in
13 the superior court of the county that determined the question of
14 the mental competence of the defendant. The adult requesting to
15 be released shall be informed of his or her right to counsel by a
16 member of the staff of the state hospital, developmental center,
17 community care facility, or health facility and by the court; and if
18 he or she does not have an attorney for the proceedings, the court
19 shall immediately appoint the public defender or other attorney to
20 assist him or her in the preparation of a petition for the writ of
21 habeas corpus and to represent him or her in the proceedings. The
22 person shall pay the costs of those legal services if he or she is
23 able.

24 (b) At the time the petition for the writ of habeas corpus is filed
25 with the court, the clerk of the court shall transmit a copy of the
26 petition, together with notification as to the time and place of an
27 evidentiary hearing in the matter, to the parent or conservator of
28 the person seeking release or for whom release is sought and to
29 the director of the appropriate regional center. Notice shall also
30 be provided to the director of the appropriate developmental center
31 if the person seeking release or for whom release is sought resides
32 in a developmental center. The notice shall be sent by registered
33 or certified mail with proper postage prepaid, addressed to the
34 addressee's last known address, and with a return receipt requested.

35 (c) The court shall either release the adult or order an evidentiary
36 hearing to be held not sooner than five judicial days nor more than
37 10 judicial days after the petition and notice to the adult's parent
38 or conservator and to the director of the appropriate regional center
39 and developmental center are deposited in the United States mail
40 pursuant to this section.

1 (1) Except as provided in paragraph (2), if the court finds (A)
2 that the adult requesting release or for whom release is requested
3 is not developmentally disabled, or (B) that he or she is
4 developmentally disabled and that he or she is able to provide
5 safely for his or her basic personal needs for food, shelter, and
6 clothing, he or she shall be released within 72 hours. If the court
7 finds that he or she is developmentally disabled and that he or she
8 is unable to provide safely for his or her basic personal needs for
9 food, shelter, or clothing, but that a responsible person or a regional
10 center or other public or private agency is willing and able to
11 provide therefor, the court shall release the developmentally
12 disabled adult to the responsible person or regional center or other
13 public or private agency, as the case may be, subject to any
14 conditions that the court deems proper for the welfare of the
15 developmentally disabled adult and that are consistent with the
16 purposes of this division.

17 (2) If the person is charged with a violent felony and has been
18 committed to his or her current placement pursuant to Section
19 1370.1 of the Penal Code or Section 6500, and the court finds (A)
20 that the adult requesting release or for whom release is requested
21 is not a person with a developmental or intellectual disability, or
22 (B) that he or she is able to provide safely for his or her basic
23 personal needs for food, shelter, and clothing, the court shall, before
24 releasing the person, determine that the release will not pose a
25 danger to the health or safety of others due to the person's known
26 behavior. If the court finds there is no danger pursuant to the
27 finding required by subparagraph (D) of paragraph (1) of
28 subdivision (a) of Section 1370.1 of the Penal Code, the person
29 shall be released within 72 hours. If the person's release poses a
30 danger to the health or safety of others, the court may grant or
31 deny the request, taking into account the danger to the health or
32 safety of others posed by the person. If the court finds that release
33 of the person can be made subject to conditions that the court
34 deems proper for the preservation of public health and safety and
35 the welfare of the person, the person shall be released subject to
36 those conditions.

37 (d) If in a proceeding under this section, the court finds that the
38 adult is developmentally disabled and has no parent or conservator,
39 and is in need of a conservator, the court shall order the appropriate
40 regional center or the state department to initiate, or cause to be

1 initiated, proceedings for the appointment of a conservator for the
2 developmentally disabled adult.

3 (e) This section shall become operative January 1, 1988.

4 SEC. 50. Section 5002 of the Welfare and Institutions Code is
5 amended to read:

6 5002. Mentally disordered persons and persons impaired by
7 chronic alcoholism may no longer be judicially committed.

8 Mentally disordered persons shall receive services pursuant to
9 this part. Persons impaired by chronic alcoholism may receive
10 services pursuant to this part if they elect to do so pursuant to
11 Article 3 (commencing with Section 5225) of Chapter 2.

12 Epileptics may no longer be judicially committed.

13 This part shall not be construed to repeal or modify laws relating
14 to the commitment of mentally disordered sex offenders, persons
15 with an intellectual disability, and mentally disordered criminal
16 offenders, except as specifically provided in Section 4011.6 of the
17 Penal Code, or as specifically provided in other statutes.

18 SEC. 51. Section 5008 of the Welfare and Institutions Code is
19 amended to read:

20 5008. Unless the context otherwise requires, the following
21 definitions shall govern the construction of this part:

22 (a) "Evaluation" consists of multidisciplinary professional
23 analyses of a person's medical, psychological, educational, social,
24 financial, and legal conditions that may appear to constitute a
25 problem. A person who provides evaluation services shall be a
26 properly qualified professional and may be a full-time employee
27 of an agency providing evaluation services or may be a part-time
28 employee or may be employed on a contractual basis.

29 (b) "Court-ordered evaluation" means an evaluation ordered by
30 a superior court pursuant to Article 2 (commencing with Section
31 5200) or by a court pursuant to Article 3 (commencing with Section
32 5225) of Chapter 2.

33 (c) "Intensive treatment" consists of hospital and other services
34 that may be indicated. Intensive treatment shall be provided by
35 properly qualified professionals and carried out in facilities
36 qualifying for reimbursement under the California Medical
37 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
38 with Section 14000) of Part 3 of Division 9, or under Title XVIII
39 of the federal Social Security Act and regulations thereunder.
40 Intensive treatment may be provided in hospitals of the United

1 States government by properly qualified professionals. Nothing
2 in this part shall be construed to prohibit an intensive treatment
3 facility from also providing 72-hour treatment and evaluation.

4 (d) “Referral” is referral of persons by each agency or facility
5 providing intensive treatment or evaluation services to other
6 agencies or individuals. The purpose of referral shall be to provide
7 for continuity of care, and may include, but need not be limited
8 to, informing the person of available services, making appointments
9 on the person’s behalf, discussing the person’s problem with the
10 agency or individual to whom the person has been referred,
11 appraising the outcome of referrals, and arranging for personal
12 escort and transportation when necessary. Referral shall be
13 considered complete when the agency or individual to whom the
14 person has been referred accepts responsibility for providing the
15 necessary services. A person shall be advised of available precare
16 services that prevent initial recourse to hospital treatment or
17 aftercare services that support adjustment to community living
18 following hospital treatment. These services may be provided
19 through county welfare departments, the State Department of State
20 Hospitals, Short-Doyle programs, or other local agencies.

21 Each agency or facility providing evaluation services shall
22 maintain a current and comprehensive file of all community
23 services, both public and private. These files shall contain current
24 agreements with agencies or individuals accepting referrals, as
25 well as appraisals of the results of past referrals.

26 (e) “Crisis intervention” consists of an interview or series of
27 interviews within a brief period of time, conducted by qualified
28 professionals, and designed to alleviate personal or family
29 situations that present a serious and imminent threat to the health
30 or stability of the person or the family. The interview or interviews
31 may be conducted in the home of the person or family, or on an
32 inpatient or outpatient basis with the therapy, or other services, as
33 may be appropriate. Crisis intervention may, as appropriate, include
34 suicide prevention, psychiatric, welfare, psychological, legal, or
35 other social services.

36 (f) “Prepetition screening” is a screening of all petitions for
37 court-ordered evaluation as provided in Article 2 (commencing
38 with Section 5200) of Chapter 2, consisting of a professional
39 review of all petitions; an interview with the petitioner and,
40 whenever possible, the person alleged, as a result of mental

1 disorder, to be a danger to others, or to himself or herself, or to be
2 gravely disabled, to assess the problem and explain the petition;
3 when indicated, efforts to persuade the person to receive, on a
4 voluntary basis, comprehensive evaluation, crisis intervention,
5 referral, and other services specified in this part.

6 (g) “Conservatorship investigation” means investigation by an
7 agency appointed or designated by the governing body of cases in
8 which conservatorship is recommended pursuant to Chapter 3
9 (commencing with Section 5350).

10 (h) (1) For purposes of Article 1 (commencing with Section
11 5150), Article 2 (commencing with Section 5200), and Article 4
12 (commencing with Section 5250) of Chapter 2, and for the purposes
13 of Chapter 3 (commencing with Section 5350), “gravely disabled”
14 means either of the following:

15 (A) A condition in which a person, as a result of a mental
16 disorder, is unable to provide for his or her basic personal needs
17 for food, clothing, or shelter.

18 (B) A condition in which a person has been found mentally
19 incompetent under Section 1370 of the Penal Code and all of the
20 following facts exist:

21 (i) The indictment or information pending against the defendant
22 at the time of commitment charges a felony involving death, great
23 bodily harm, or a serious threat to the physical well-being of
24 another person.

25 (ii) The indictment or information has not been dismissed.

26 (iii) As a result of mental disorder, the person is unable to
27 understand the nature and purpose of the proceedings taken against
28 him or her and to assist counsel in the conduct of his or her defense
29 in a rational manner.

30 (2) For purposes of Article 3 (commencing with Section 5225)
31 and Article 4 (commencing with Section 5250), of Chapter 2, and
32 for the purposes of Chapter 3 (commencing with Section 5350),
33 “gravely disabled” means a condition in which a person, as a result
34 of impairment by chronic alcoholism, is unable to provide for his
35 or her basic personal needs for food, clothing, or shelter.

36 (3) The term “gravely disabled” does not include persons with
37 intellectual disabilities by reason of having an intellectual disability
38 alone.

39 (i) “Peace officer” means a duly sworn peace officer as that
40 term is defined in Chapter 4.5 (commencing with Section 830) of

1 Title 3 of Part 2 of the Penal Code who has completed the basic
2 training course established by the Commission on Peace Officer
3 Standards and Training, or any parole officer or probation officer
4 specified in Section 830.5 of the Penal Code when acting in relation
5 to cases for which he or she has a legally mandated responsibility.

6 (j) “Postcertification treatment” means an additional period of
7 treatment pursuant to Article 6 (commencing with Section 5300)
8 of Chapter 2.

9 (k) “Court,” unless otherwise specified, means a court of record.

10 (l) “Antipsychotic medication” means any medication
11 customarily prescribed for the treatment of symptoms of psychoses
12 and other severe mental and emotional disorders.

13 (m) “Emergency” means a situation in which action to impose
14 treatment over the person’s objection is immediately necessary
15 for the preservation of life or the prevention of serious bodily harm
16 to the patient or others, and it is impracticable to first gain consent.
17 It is not necessary for harm to take place or become unavoidable
18 prior to treatment.

19 ~~SEC. 52.—Section 5325 of the Welfare and Institutions Code is~~
20 ~~amended to read:~~

21 ~~5325.—Each person involuntarily detained for evaluation or~~
22 ~~treatment under provisions of this part, each person admitted as a~~
23 ~~voluntary patient for psychiatric evaluation or treatment to any~~
24 ~~health facility, as defined in Section 1250 of the Health and Safety~~
25 ~~Code, in which psychiatric evaluation or treatment is offered, and~~
26 ~~each person with an intellectual disability committed to a state~~
27 ~~hospital pursuant to Article 2 (commencing with Section 6500) of~~
28 ~~Chapter 2 of Part 2 of Division 6 shall have the following rights,~~
29 ~~a list of which shall be prominently posted in the predominant~~
30 ~~languages of the community and explained in a language or~~
31 ~~modality accessible to the patient in all facilities providing these~~
32 ~~services and otherwise brought to his or her attention by additional~~
33 ~~means that the Director of Mental Health may designate by~~
34 ~~regulation:~~

35 ~~(a) To wear his or her own clothes; to keep and use his or her~~
36 ~~own personal possessions including his or her toilet articles; and~~
37 ~~to keep and be allowed to spend a reasonable sum of his or her~~
38 ~~own money for canteen expenses and small purchases.~~

39 ~~(b) To have access to individual storage space for his or her~~
40 ~~private use.~~

1 ~~(e) To see visitors each day.~~

2 ~~(d) To have reasonable access to telephones, both to make and~~
3 ~~receive confidential calls or to have calls made for them.~~

4 ~~(e) To have ready access to letterwriting materials, including~~
5 ~~stamps, and to mail and receive unopened correspondence.~~

6 ~~(f) To refuse convulsive treatment including, but not limited to,~~
7 ~~any electroconvulsive treatment, any treatment of the mental~~
8 ~~condition that depends on the induction of a convulsion by any~~
9 ~~means, and insulin coma treatment.~~

10 ~~(g) To refuse psychosurgery. Psychosurgery is defined as those~~
11 ~~operations currently referred to as lobotomy, psychiatric surgery,~~
12 ~~and behavioral surgery and all other forms of brain surgery if the~~
13 ~~surgery is performed for the purpose of any of the following:~~

14 ~~(1) Modification or control of thoughts, feelings, actions, or~~
15 ~~behavior rather than the treatment of a known and diagnosed~~
16 ~~physical disease of the brain.~~

17 ~~(2) Modification of normal brain function or normal brain tissue~~
18 ~~in order to control thoughts, feelings, actions, or behavior.~~

19 ~~(3) Treatment of abnormal brain function or abnormal brain~~
20 ~~tissue in order to modify thoughts, feelings, actions, or behavior~~
21 ~~when the abnormality is not an established cause for those thoughts,~~
22 ~~feelings, actions, or behavior.~~

23 ~~Psychosurgery does not include prefrontal sonic treatment~~
24 ~~wherein there is no destruction of brain tissue. The Director of~~
25 ~~Mental Health shall promulgate appropriate regulations to assure~~
26 ~~adequate protection of patients' rights in such treatment.~~

27 ~~(h) To see and receive the services of a patient advocate who~~
28 ~~has no direct or indirect clinical or administrative responsibility~~
29 ~~for the person receiving mental health services.~~

30 ~~(i) Other rights, as specified by regulation.~~

31 ~~Each patient shall also be given notification in a language or~~
32 ~~modality accessible to the patient of other constitutional and~~
33 ~~statutory rights that are found by the State Department of Mental~~
34 ~~Health to be frequently misunderstood, ignored, or denied.~~

35 ~~Upon admission to a facility each patient shall immediately be~~
36 ~~given a copy of a State Department of Mental Health prepared~~
37 ~~patients' rights handbook.~~

38 ~~The State Department of Mental Health shall prepare and provide~~
39 ~~the forms specified in this section and in Section 5157.~~

1 ~~The rights specified in this section may not be waived by the~~
2 ~~person's parent, guardian, or conservator.~~

3 *SEC. 52. Section 5325 of the Welfare and Institutions Code is*
4 *amended to read:*

5 5325. Each person involuntarily detained for evaluation or
6 treatment under provisions of this part, ~~and~~ each person admitted
7 as a voluntary patient for psychiatric evaluation or treatment to
8 any health facility, as defined in Section 1250 of the Health and
9 Safety Code, in which psychiatric evaluation or treatment is
10 offered, *and each person with an intellectual disability committed*
11 *to a state hospital pursuant to Article 2 (commencing with Section*
12 *6500) of Chapter 2 of Part 2 of Division 6*, shall have the following
13 rights, a list of which shall be prominently posted in the
14 predominant languages of the community and explained in a
15 language or modality accessible to the patient in all facilities
16 providing ~~those~~ *these* services, and otherwise brought to his or her
17 attention by ~~any~~ additional means as the Director of Health Care
18 Services may designate by regulation. Each person committed to
19 a state hospital shall also have the following rights, a list of which
20 shall be prominently posted in the predominant languages of the
21 community and explained in a language or modality accessible to
22 the patient in all facilities providing those services and otherwise
23 brought to his or her attention by any additional means as the
24 Director of State Hospitals may designate by regulation:

25 (a) To wear his or her own clothes; to keep and use his or her
26 own personal possessions including his or her toilet articles; and
27 to keep and be allowed to spend a reasonable sum of his or her
28 own money for canteen expenses and small purchases.

29 (b) To have access to individual storage space for his or her
30 private use.

31 (c) To see visitors each day.

32 (d) To have reasonable access to telephones, both to make and
33 receive confidential calls or to have ~~such~~ calls made for them.

34 (e) To have ready access to letterwriting materials, including
35 stamps, and to mail and receive unopened correspondence.

36 (f) To refuse convulsive treatment including, but not limited to,
37 any electroconvulsive treatment, any treatment of the mental
38 condition ~~which~~ *that* depends on the induction of a convulsion by
39 any means, and insulin coma treatment.

1 (g) To refuse psychosurgery. Psychosurgery is defined as those
2 operations currently referred to as lobotomy, psychiatric surgery,
3 and behavioral surgery, *surgery* and all other forms of brain surgery
4 if the surgery is performed for the purpose of any of the following:

5 (1) Modification or control of thoughts, feelings, actions, or
6 behavior rather than the treatment of a known and diagnosed
7 physical disease of the brain.

8 (2) Modification of normal brain function or normal brain tissue
9 in order to control thoughts, feelings, actions, or behavior.

10 (3) Treatment of abnormal brain function or abnormal brain
11 tissue in order to modify thoughts, feelings, ~~actions~~ *actions*, or
12 behavior when the abnormality is not an established cause for those
13 thoughts, feelings, actions, or behavior.

14 Psychosurgery does not include prefrontal sonic treatment
15 wherein there is no destruction of brain tissue. The Director of
16 Health Care Services and the Director of State Hospitals shall
17 promulgate appropriate regulations to assure adequate protection
18 of patients' rights in such treatment.

19 (h) To see and receive the services of a patient advocate who
20 has no direct or indirect clinical or administrative responsibility
21 for the person receiving mental health services.

22 (i) Other rights, as specified by regulation.

23 Each patient shall also be given notification in a language or
24 modality accessible to the patient of other constitutional and
25 statutory rights ~~which~~ *that* are found by the State Department of
26 Health Care Services and the State Department of State Hospitals
27 to be frequently misunderstood, ignored, or denied.

28 Upon admission to a facility each patient, involuntarily detained
29 for evaluation or treatment under provisions of this part, or as a
30 voluntary patient for psychiatric evaluation or treatment to a health
31 facility, as defined in Section 1250 of the Health and Safety Code,
32 in which psychiatric evaluation or treatment is offered, shall
33 immediately be given a copy of a State Department of Health Care
34 Services prepared patients' rights handbook. Each person
35 committed to a state hospital, upon admission, shall immediately
36 be given a copy of a State Department of State Hospitals prepared
37 patients' rights handbook.

38 The State Department of Health Care Services and the State
39 Department of State Hospitals shall prepare and provide the forms
40 specified in this section. The State Department of Health Care

1 Services shall prepare and provide the forms specified in Section
2 5157.

3 The rights specified in this section may not be waived by the
4 person's parent, guardian, or conservator.

5 SEC. 53. Section 5585.25 of the Welfare and Institutions Code
6 is amended to read:

7 5585.25. "Gravely disabled minor" means a minor who, as a
8 result of a mental disorder, is unable to use the elements of life
9 that are essential to health, safety, and development, including
10 food, clothing, and shelter, even though provided to the minor by
11 others. Intellectual disability, epilepsy, or other developmental
12 disabilities, alcoholism, other drug abuse, or repeated antisocial
13 behavior do not, by themselves, constitute a mental disorder.

14 SEC. 54. Section 6250 of the Welfare and Institutions Code is
15 amended to read:

16 6250. As used in this part, "persons subject to judicial
17 commitment" means persons who may be judicially committed
18 under this part as mentally disordered sex offenders pursuant to
19 Article 1 (commencing with Section 6331), sexually violent
20 predators pursuant to Article 4 (commencing with Section 6600),
21 or persons with intellectual disabilities pursuant to Article 2
22 (commencing with Section 6500) of Chapter 2.

23 Nothing in this part shall be held to change or interfere with the
24 provisions of the Penal Code and other laws relating to mentally
25 disordered persons charged with crime or to the criminally insane.

26 This part shall be liberally construed so that, as far as possible
27 and consistent with the rights of persons subject to commitment,
28 those persons shall be treated, not as criminals, but as sick persons.

29 SEC. 55. The heading of Article 2 (commencing with Section
30 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and
31 Institutions Code is amended to read:

32

33 Article 2. Persons with Intellectual Disabilities

34

35 SEC. 56. Section 6505 of the Welfare and Institutions Code is
36 amended to read:

37 6505. Whenever the court considers it necessary or advisable,
38 it may cause an order to issue for the apprehension and delivery
39 to the court of the person alleged to have a developmental
40 disability, and may have the order executed by a peace officer.

1 SEC. 57. Section 6513 of the Welfare and Institutions Code is
2 amended to read:

3 6513. (a) The State Department of Developmental Services
4 shall pay for the costs, as defined in this section, of judicial
5 proceedings, including commitment, placement, or release, under
6 this article under both of the following conditions:

7 (1) The judicial proceedings are in a county where a state
8 hospital or developmental center maintains a treatment program
9 for persons with intellectual disabilities who are a danger to
10 themselves or others.

11 (2) The judicial proceedings relate to a person with an
12 intellectual disability who is at the time residing in the state hospital
13 or developmental center located in the county of the proceedings.

14 (b) The appropriate financial officer or other designated official
15 in a county described in subdivision (a) may prepare a statement
16 of all costs incurred by the county in the investigation, preparation
17 for, and conduct of the proceeding, including any costs of the
18 district attorney or county counsel and any public defender or
19 court-appointed counsel representing the person, and including
20 any costs incurred by the county for the guarding or keeping of
21 the person while away from the state hospital and for transportation
22 of the person to and from the hospital. The statement shall be
23 certified by a judge of the superior court and shall be sent to the
24 State Department of Developmental Services. In lieu of sending
25 statements after each proceeding, the statements may be held and
26 submitted quarterly for the preceding three-month period.

27 ~~SEC. 58. Section 6551 of the Welfare and Institutions Code is~~
28 ~~amended to read:~~

29 ~~6551. (a) (1) If the court is in doubt as to whether the person~~
30 ~~is mentally disordered or has an intellectual disability, the court~~
31 ~~shall order the person to be taken to a facility designated by the~~
32 ~~county and approved by the State Department of Mental Health~~
33 ~~as a facility for 72-hour treatment and evaluation. Thereupon,~~
34 ~~Article 1 (commencing with Section 5150) of Chapter 2 of Part 1~~
35 ~~of Division 5 applies, except that the professional person in charge~~
36 ~~of the facility shall make a written report to the court concerning~~
37 ~~the results of the evaluation of the person's mental condition.~~

38 ~~(2) If the professional person in charge of the facility finds the~~
39 ~~person is, as a result of mental disorder, in need of intensive~~
40 ~~treatment, the person may be certified for not more than 14 days~~

1 of involuntary intensive treatment if the conditions set forth in
2 subdivision (c) of Section 5250 and subdivision (b) of Section
3 5260 are complied with. Thereupon, Article 4 (commencing with
4 Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to
5 the person. The person may be detained pursuant to Article 4.5
6 (commencing with Section 5260), or Article 4.7 (commencing
7 with Section 5270.10), or Article 6 (commencing with Section
8 5300) of Chapter 2 of Part 1 of Division 5 if that article applies.

9 (b) (1) If the professional person in charge of the facility finds
10 that the person has an intellectual disability, the juvenile court may
11 direct the filing in any other court of a petition for the commitment
12 of a minor as a person with an intellectual disability to the State
13 Department of Developmental Services for placement in a state
14 hospital. In this case, the juvenile court shall transmit to the court
15 in which the petition is filed a copy of the report of the professional
16 person in charge of the facility in which the minor was placed for
17 observation.

18 (2) The court in which the petition for commitment is filed may
19 accept the report of the professional person in lieu of the
20 appointment, or subpoenaing, and testimony of other expert
21 witnesses appointed by the court, if the laws applicable to the
22 commitment proceedings provide for the appointment by court of
23 medical or other expert witnesses or may consider the report as
24 evidence in addition to the testimony of medical or other expert
25 witnesses.

26 (c) If the professional person in charge of the facility for 72-hour
27 evaluation and treatment reports to the juvenile court that the minor
28 is not affected with a mental disorder requiring intensive treatment
29 or does not have an intellectual disability, the professional person
30 in charge of the facility shall return the minor to the juvenile court
31 on or before the expiration of the 72-hour period and the court
32 shall proceed with the case in accordance with the Juvenile Court
33 Law.

34 (d) An expenditure for the evaluation or intensive treatment of
35 a minor under this section shall be considered an expenditure made
36 under Part 2 (commencing with Section 5600) of Division 5 and
37 shall be reimbursed by the state as are other local expenditures
38 pursuant to that part.

39 (e) The jurisdiction of the juvenile court over the minor shall
40 be suspended during the time that the minor is subject to the

jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of a person with an intellectual disability is filed or under remand for 90 days for intensive treatment or commitment ordered by the court.

SEC. 58. *Section 6551 of the Welfare and Institutions Code is amended to read:*

6551. (a) (1) If the court is in doubt as to whether the person is mentally disordered or ~~mentally retarded~~ *has an intellectual disability*, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of Social Services as a facility for 72-hour treatment and evaluation. Thereupon, Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 applies, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the person's mental condition. ~~If~~

(2) *If* the professional person in charge of the facility finds the person is, as a result of mental disorder, in need of intensive treatment, the person may be certified for not more than 14 days of involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 and subdivision (b) of Section 5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of Part 1 of Division 5 if that article applies.

~~If~~

(b) (1) *If* the professional person in charge of the facility finds that the person ~~is mentally retarded~~ *has an intellectual disability*, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as a ~~mentally retarded~~ person *with an intellectual disability* to the State Department of Developmental Services for placement in a state hospital. In ~~such~~ *this* case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. ~~The~~

(2) *The* court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to such commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

If

(c) *If* the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with ~~any~~ a mental disorder requiring intensive treatment or ~~mental retardation~~ *does not have an intellectual disability*, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

~~Any~~

(d) *An* expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to that part.

~~The~~

(e) *The* jurisdiction of the juvenile court over the minor shall be suspended during the time that the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of a ~~mentally retarded~~ person *with an intellectual disability* is filed or under remand for 90 days for intensive treatment or commitment ordered by the court.

SEC. 59. The heading of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 of the Welfare and Institutions Code is amended to read:

Article 4. Persons with Intellectual Disabilities

SEC. 60. Section 6715 of the Welfare and Institutions Code is amended to read:

1 6715. The court shall inquire into the financial condition of
2 the parent, guardian, or other person charged with the support of
3 a person committed as having an intellectual disability, and if it
4 finds the person able to do so, in whole or in part, it shall make a
5 further order, requiring him or her to pay, to the extent the court
6 considers the person able, the expenses of the proceedings in
7 connection with the investigation, detention, and commitment of
8 the person committed, and the expenses of the committed person's
9 delivery to the institution, and to pay to the county, at stated
10 periods, the sums the court deems proper, during the time the
11 person remains in the institution or on leave of absence to a
12 licensed hospital, facility, or home for the care of those persons.
13 This order may be enforced by further orders as the court deems
14 necessary, and may be varied, altered, or revoked in its discretion.

15 The court shall designate a county officer to keep a record of
16 payments ordered to be made, to receive, receipt for, and record
17 the payments made, to pay over the payments to the county
18 treasurer, to see that the persons ordered to make the payments
19 comply with the orders, and to report to the court any failure to
20 make the payments.

21 SEC. 61. Section 6717 of the Welfare and Institutions Code is
22 amended to read:

23 6717. The cost necessarily incurred in determining whether a
24 person is a fit subject for commitment and securing his or her
25 commitment, is a charge upon the county where he or she is
26 committed. These costs include the fees of witnesses, medical
27 examiners, psychiatrists, and psychologists allowed by the judge
28 ordering the examination. If the person sought to be committed is
29 not an indigent person, the costs of the proceedings are the
30 obligation of that person and shall be paid by him or her, or by his
31 or her guardian or conservator, as provided in Division 4
32 (commencing with Section 1400) of the Probate Code, or shall be
33 paid by persons legally liable for his or her maintenance, unless
34 otherwise ordered by the judge.

35 SEC. 62. The heading of Article 4 (commencing with Section
36 6740) of Chapter 4 of Part 2 of Division 6 of the Welfare and
37 Institutions Code is amended to read:

38
39 Article 4. Persons with Intellectual Disabilities
40

1 SEC. 63. Section 6740 of the Welfare and Institutions Code is
2 amended to read:

3 6740. The court shall attach to the order of commitment of a
4 person with an intellectual disability its findings and conclusions,
5 together with all the social and other data it has bearing upon the
6 case, and the same shall be delivered to the place of commitment
7 with the order.

8 SEC. 64. Section 6741 of the Welfare and Institutions Code is
9 amended to read:

10 6741. The sheriff or probation officer, whichever is designated
11 by the court, may execute the order of commitment with respect
12 to a person with an intellectual disability.

13 In a case in which the probation officer executes the order of
14 commitment, he or she shall be compensated for transporting the
15 person to a state hospital in the amount and manner that a sheriff
16 is compensated for similar services.

17 SEC. 65. Section 7275 of the Welfare and Institutions Code is
18 amended to read:

19 7275. The husband, wife, father, mother, or children of a patient
20 in a state hospital for the mentally disordered, the estates of these
21 persons, and the guardian or conservator and administrator of the
22 estate of the patient shall cause him or her to be properly and
23 suitably cared for and maintained, and shall pay the costs and
24 charges for transportation to a state institution. The husband, wife,
25 father, mother, or children of a patient in a state hospital for the
26 mentally disordered and the administrators of their estates, and the
27 estate of the person shall be liable for his or her care, support, and
28 maintenance in a state institution of which he or she is a patient.
29 The liability of these persons and estates shall be a joint and several
30 liability, and the liability shall exist whether the person has become
31 a patient of a state institution pursuant to the provisions of this
32 code or pursuant to the provisions of Sections 1026, 1368, 1369,
33 1370, and 1372 of the Penal Code.

34 This section does not impose liability for the care of persons
35 with intellectual disabilities in state hospitals.

36 SEC. 66. Section 7351 of the Welfare and Institutions Code is
37 amended to read:

38 7351. Wherever in any provision of this code heretofore or
39 hereafter enacted the term “parole” is used in relation to the release
40 of a patient from a state hospital, it shall be construed to refer to

1 and mean “leave of absence.” A judicially committed patient or
2 patient with an intellectual disability granted a leave of absence
3 on or after July 1, 1969, and a patient on leave of absence as of
4 July 1, 1969, may at any time during the period of the leave of
5 absence be recalled and returned to the hospital.

6 Upon the release of a judicially committed patient as granted by
7 the medical director of a state hospital, on leave of absence or
8 discharge upon any of the grounds provided in this article, in
9 accordance with the rules and regulations prescribed by the
10 department, the superintendent shall issue to or on behalf of the
11 judicially committed patient a document stating the general terms
12 or limitations of the leave of absence, or a certificate stating the
13 general condition of, or the reason for, the discharge of the
14 judicially committed patient.

15 SEC. 67. Section 11014 of the Welfare and Institutions Code
16 is amended to read:

17 11014. To the extent that any provision of this part prohibits
18 the granting of aid to persons confined in a public institution for
19 tuberculosis or mental disease or as a result of the diagnosis of
20 tuberculosis, intellectual disability, or psychosis permitted by
21 federal law, that provision shall be inoperative.

22 SEC. 68. Any section of any act enacted by the Legislature
23 during the 2012 calendar year, except for Assembly Bill 2370, that
24 takes effect on or before January 1, 2013, and that amends, amends
25 and renumbers, adds, repeals and adds, or repeals ~~Section 51765~~
26 ~~of the Education Code or Section 12926 of the Government Code,~~
27 *a section that is amended, amended and renumbered, added,*
28 *repealed and added, or repealed by this act* shall prevail over this
29 act, whether that act is enacted prior to, or subsequent to, the
30 enactment of this act. The repeal, or repeal and addition, of any
31 article, chapter, part, title, or division of any code by this act shall
32 not become operative if any section of any other act that is enacted
33 by the Legislature during the 2012 calendar year and takes effect
34 on or before January 1, 2013, amends, amends and renumbers,
35 adds, repeals and adds, or repeals any section contained in that
36 article, chapter, part, title, or division.